

OCT 15 2020

1 MANATT, PHELPS & PHILLIPS, LLP  
 2 CRAIG A. MOYER (Bar No. CA 094187)  
 3 E-Mail: CMoyer@manatt.com  
 4 GEORGE M. SONEFF (Bar No. CA 117128)-  
 5 E-Mail: Gsoneff@manatt.com  
 6 SIGRID R. WAGGENER (Bar No. CA 257979)  
 7 E-mail: SWaggener@manatt.com  
 8 DAVID T. MORAN (Bar No. CA 217647)  
 9 E-Mail: DMoran@manatt.com  
 2049 Century Park East  
 Suite 1700  
 Los Angeles, CA 90067  
 Telephone: (310) 312-4000  
 Facsimile: (310) 312-4224

Attorneys for Petitioner and Plaintiff  
 AERA ENERGY LLC

10  
 11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 12 COUNTY OF VENTURA

14 AERA ENERGY LLC, a California limited  
 liability company,

15 Petitioner and Plaintiff,

16 v.

17 COUNTY OF VENTURA, a municipal  
 18 corporation, and the COUNTY OF VENTURA  
 19 BOARD OF SUPERVISORS, and DOES 1  
 through 25, inclusive,

20 Respondents and  
 21 Defendants.

Case No.

**CEQA CASE**

**PLAINTIFF AND PETITIONER AERA  
 ENERGY LLC'S VERIFIED PETITION  
 FOR WRIT OF MANDATE AND  
 COMPLAINT FOR DECLARATORY  
 RELIEF AND DAMAGES**

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

**JURY TRIAL DEMANDED**

22  
 23  
 24  
 25  
 26  
 27  
 28 326878608.3

MANATT, PHELPS &  
 PHILLIPS, LLP  
 ATTORNEYS AT LAW  
 LOS ANGELES



1 Enforcement and implementation of those provisions throughout the State of California have been  
2 delegated by the United States Environmental Protection Agency (EPA) to CalGEM.

3 4. As detailed below, the County is now seeking to impinge upon and usurp State and  
4 Federal regulation by requiring all oil and gas development within the County to comply with  
5 new limitations set forth in the County's 2040 General Plan, to be implemented through changes  
6 to the County's zoning ordinances. These limitations would unlawfully impede Aera's existing  
7 operations as well as its planned future operations. The provisions of the 2040 General Plan are  
8 preempted by State and Federal law. They also impair Aera's vested right to continue  
9 development and production of its leased oil and gas resources within the County and result in a  
10 taking of Aera's property interests without just compensation.

11 5. Moreover, in its rush to prepare, consider and ultimately adopt the 2040 General  
12 Plan, the County unlawfully failed to disclose, evaluate and ameliorate a multitude of  
13 environmental consequences resulting from 2040 General Plan implementation.

14 6. Through this action, Aera challenges the County's adoption of the 2040 General  
15 Plan and seeks a writ of mandate and declaratory relief against the County on grounds that, in  
16 adopting and approving its 2040 General Plan, the County has adopted policies that are:  
17 preempted by State and Federal law; an unconstitutional taking without just compensation;  
18 violate Aera's vested right to continue development and production of its leased oil and gas  
19 resources within the County, violate the California Environmental Quality Act (Pub. Resources  
20 Code, §§ 21000 et seq.) ("CEQA"), and abuse the County's discretion.

21 7. Aera requests that this Court issue a writ of mandate under Code of Civil  
22 Procedure section 1085, or alternatively section 1094.5, directing the County to vacate and set  
23 aside its approval of the 2040 General Plan and certification of its environmental impact report  
24 relating to the same. Aera further requests injunctive and declaratory relief to prevent  
25 implementation of the 2040 General Plan provisions set forth below, as well as damages for the  
26 taking of its property in the event the provisions are upheld.

1 **PARTIES**

2 8. Aera is a California limited liability company with its principal place of business  
3 in Bakersfield, California. At all times relevant to the allegations in this Petition, Aera was  
4 engaged in the business of oil and gas exploration, development, and production in California and  
5 within Ventura County, specifically.

6 9. The County is a municipal corporation with its county seat in the City of Ventura,  
7 California. The Ventura County Board of Supervisors (Board) is the governing body of the  
8 County of Ventura.

9 10. Aera is unaware of the true names and/or capacities of Respondents and  
10 Defendants DOES 1 through 25, inclusive, and therefore sues said Respondents and Defendants  
11 by such fictitious names. Aera will amend this Petition to insert the true names and/or capacities  
12 of DOES 1 through 25, inclusive, when the same have been ascertained. Aera is informed and  
13 believes and thereon alleges that each such fictitiously named Respondent and Defendant is, in  
14 some manner or for some reason, responsible for the damage caused to Aera and is subject to the  
15 relief being sought in this Petition.

16 **JURISDICTION AND VENUE**

17 11. This Court has jurisdiction under Code of Civil Procedure section 1085  
18 (alternatively, section 1094.5), as well as Public Resources Code sections 21168 and/or 21168.5.

19 12. Venue is proper in this Court under Code of Civil Procedure sections 393, 394 and  
20 395, as the acts and omissions alleged herein took place within the County of Ventura and the  
21 County is the Respondent and Defendant in this action.

22 **GENERAL FACTUAL ALLEGATIONS**

23 **A. Aera's Production of Oil and Gas in Ventura County**

24 13. For more than a century, oil and gas production has been a critical component of  
25 the County's economy. The first commercially viable oil well in the County was drilled in  
26 approximately 1916, and the expansion of oil production in the 1920's coincided with, and led to,  
27 significant economic growth and development in the region.

1           14.     The Ventura Field – a long, narrow field located approximately three miles north  
2 of the City of Ventura and extending approximately nine miles in an east-west direction – covers  
3 more than 8,000 surface acres and has been the major source of oil and natural gas in the region  
4 since the 1920s. It is currently the eleventh largest field in California, producing approximately  
5 ten (10) thousand barrels of oil and six (6) million cubic feet of gas per day.

6           15.     Aera and its predecessors-in-interest have been actively conducting oil and gas  
7 development and production operations in the County since the early 1900s. Today, Aera is the  
8 largest onshore oil and gas producer in the County, with oil and gas operations covering  
9 approximately 4,300 acres in the Ventura Field. Aera’s daily production activities involve nearly  
10 one-hundred full-time employees and several hundred contractors and vendors, all working  
11 within the County.

12           16.     Aera’s operations require the use of both production and water injection wells.  
13 Production wells remove oil and gas resources from the field; injection wells flood produced  
14 water into the geologic formations in which the oil and gas resources are located in order to  
15 maintain the reservoir pressure within the geologic formation and continue to push the oil and gas  
16 resources into the vicinity of the production wells. The oil and gas production process requires  
17 constant drilling and re-drilling of both types of wells depending on the location of the oil and gas  
18 within a geologic formation as well as the overall geology of the field. Re-drilling of a well is  
19 often necessary to modify its depth to enable it to access a different portion of a reservoir. Aera  
20 and its predecessors-in-interest have regularly drilled and re-drilled wells; over the years Aera has  
21 drilled more than 1,900 wells in the Ventura Field and, in any given year, numerous wells are  
22 drilled or re-drilled as part of Aera’s routine field operations.

23           17.     The County first promulgated regulations specifically relating to oil and gas  
24 production in 1947. In March 1947, the County adopted Ventura County Ordinance No. 412,  
25 which, for the first time, separated land uses, including oil and gas exploration, into different  
26 categories and authorized such uses in specified areas within the County. Section 16(II)(B) of  
27 County Ordinance No. 412 required issuance of a Special Use Permit to conduct oil and gas  
28 production operations within the County. Aera’s predecessors-in-interest applied for, and

326878608.3

1 received, the following Special Use Permits authorizing production of oil and gas on real property  
2 overlaying the Ventura Field:

- 3 • Special Use Permit No. 19, dated February 24, 1948;
- 4 • Special Use Permit No. 35, dated November 16, 1948;
- 5 • Special Use Permit No. 45, dated April 19, 1949;
- 6 • Special Use Permit No. 48, dated June 21, 1949;
- 7 • Special Use Permit No. 65, dated November 22, 1949;
- 8 • Special Use Permit No. 445, dated January 24, 1956; and

9 (collectively, the “Special Use Permits”)

10 18. The Special Use Permits all contain nearly identical authorizing language, granting  
11 the permit holder the right to engage in the following activities:

12 “drilling for and extraction of oil, gas and other hydrocarbon substances and  
13 installing and using buildings, equipment and other appurtenances accessory  
14 thereto, including pipe lines but specifically excluding processing, refining,  
packaging, bulk storage or any other use specified in Ordinance No. 412 as  
requiring review and special use permit.”

15 The Special Use Permits did not include any requirement for subsequent discretionary review or  
16 approvals from the County and did not include any requirement that the wells or production  
17 facilities within the permit boundaries be subject to location, spacing, or other conditions. The  
18 Special Use Permits also did not include an expiration date or other temporal limitation. Rather,  
19 they authorized the permit holder to drill for, and extract, any oil, gas and other hydrocarbon  
20 substances within the confines of the permit holder’s property and to install the infrastructure  
21 necessary to achieve that purpose. (A true and correct copy of a map specifying the real property  
22 covered by each Special Use Permit is attached hereto as **Exhibit A**).

23 19. Under the authority of the Special Use Permits, Aera and its predecessors-in-  
24 interest invested hundreds of millions of dollars in wells, tanks, pumps, pipelines and related  
25 facilities to pursue full development of the oil and gas resources underlying the lands covered by  
26 the Special Use Permits. In addition, on December 4, 1975, Aera was granted Conditional Use  
27 Permit No. 3573, authorizing the installation and maintenance of an oil and liquid gas storage  
28

1 tank and loading operation. This facility, which has been constructed and is operational, stores  
2 natural gas liquids, which are loaded into trucks and conveyed elsewhere for further processing.

3 20. Through its work and investment in the Ventura Field, Aera has exhibited a clear  
4 intent to maintain and expand its operations over the entire tracts of land covered by the Special  
5 Use Permits, as necessary, to fully recover all available oil and gas resources. Today, Aera has  
6 hundreds of active wells operating in the Ventura Field and plans to install additional wells  
7 regularly during the remaining productive life of the Field. Currently, the Ventura Field contains  
8 approximately 2.7 billion barrels of remaining oil, a significant portion of which is recoverable  
9 and will require several decades to recover.

10 21. Having already authorized the development of Aera's wells, tanks, pumps and  
11 related infrastructure via the Special Use Permits, the County required no additional discretionary  
12 review for construction of facilities, installation of new wells, replacement of wells, re-drilling of  
13 existing wells or abandonment of wells. If Aera were unable to continue to install, replace, re-  
14 drill, rework, and abandon wells and maintain its related production facilities, oil production in  
15 the Ventura Field would immediately suffer an accelerated decline and many of Aera's  
16 investments would be substantially devalued.

17 **B. State Regulation of Oil and Gas Operations**

18 22. Aera's development of oil and gas resources in the Ventura Field has long been  
19 closely regulated and supervised by the State. More than a century ago, the California Legislature  
20 created the agency now known as CalGEM to oversee the beneficial exploitation of oil and gas  
21 and to ensure the safe recovery of energy resources in the State. Since that time, CalGEM  
22 (formerly known as the Division of Oil, Gas and Geothermal Resources) has been the primary  
23 regulatory authority for oil and gas development in the State.

24 23. Over the years, California has adopted numerous statutes and regulations that  
25 comprehensively regulate virtually all aspects of oil and gas operations. California law vests  
26 complete authority in CalGEM to "supervise the drilling, operation, maintenance, and  
27 abandonment of wells so as to permit owners or operators of wells to utilize all methods and  
28 practices known to the oil industry for the purpose of increasing the ultimate recovery of

326878608.3

1 underground hydrocarbons and which, in the opinion of the supervisor, are suitable for this  
2 purpose in each proposed case.” Pub. Res. Code §3106(b). Prior to drilling, re-drilling,  
3 reworking, repairing, deepening or abandoning a well, Aera is required to notify CalGEM of its  
4 intent, submit supporting documentation, and obtain written authorization from CalGEM prior to  
5 commencing well operations. Through the 2040 General Plan, the County is now, for the first  
6 time, seeking to inject itself into the approval process.

7 **C. The 2040 General Plan**

8 24. California law requires that every county and city adopt a general plan “for the  
9 physical development of the county or city, and of any land outside its boundaries, which in the  
10 planning agency’s judgment bears relation to its planning.” Gov. Code § 65300. According to  
11 the County, all area plans, specific plans, subdivisions, public works projects, and zoning  
12 decisions must be consistent with the direction provided in the County’s General Plan, which  
13 serves as the County’s “blueprint” for future decisions. •

14 25. In approximately 2015, the County initiated work on updating its existing General  
15 Plan. As originally presented to the public and the consultant hired to complete the work, the  
16 update to the General Plan included updating the General Plan’s Housing Element, and updating  
17 the County’s Zoning Ordinance to implement the new General Plan policies. However, the  
18 County subsequently decided to treat the Housing Element update and the Zoning Ordinance  
19 update as separate, unrelated projects.

20 26. The new General Plan, referred to as the 2040 General Plan, is comprised of a  
21 collection of nine “elements” or topical categories. One of the elements, “Conservation and Open  
22 Space,” purports to focus on “the long-term preservation and conservation of the natural and open  
23 space environment.” (2040 General Plan, at 1-6). Contained within that element is a section  
24 devoted to oil and gas resources, which seeks to regulate oil and gas activities within the County  
25 by enacting a number of new policies that would constrain and greatly impair ongoing oil and gas  
26 production (collectively, the “Oil and Gas Policies”). These policies include, but are not limited  
27 to, the following:

- 1           •       **“COS-7.2 Oil Well Distance Criteria:** The County shall require new  
2 discretionary oil wells to be located a minimum of 1,500 feet from residential dwellings  
3 and 2,500 from any school.
- 4           •       **COS-7.4 Electrically-Powered Equipment for Oil and Gas Exploration and**  
5 **Production:** The County shall require discretionary development for oil and gas  
6 exploration and production to use electrically-powered equipment from 100 percent  
7 renewable sources and cogeneration, where feasible, to reduce air pollution and  
8 greenhouse gas emissions from internal combustion engines and equipment.
- 9           •       **COS-7.7 Conveyance for Oil and Produced Water:** The County shall require  
10 new discretionary oil wells to use pipelines to convey oil and produced water; oil and  
11 produced water shall not be trucked.
- 12          •       **COS-7.8 Gas Collection, Use, and Disposal:** The County shall require that gases  
13 emitted from all new discretionary oil and gas wells shall be collected and used or  
14 removed for sale or proper disposal. Flaring or venting shall only be allowed in cases of  
15 emergency or for testing purposes.” (2040 General Plan, at 6-12, 6-13).

16 The Oil and Gas Policies of the 2040 General Plan purport to apply only to “new discretionary”  
17 oil wells or development. While the term “new discretionary” is not defined, regardless of its  
18 definition it is of no valid legal effect because the County is preempted from regulating the  
19 conduct of oil and gas operations, regardless of whether the operations involve new facilities, or a  
20 modification or expansion of existing facilities. Rather, CalGEM is exclusively empowered to  
21 regulate oil and gas well operations, including the approval and operation of new wells in existing  
22 fields. Through the 2040 General Plan, the County is attempting to regulate in an area fully  
23 occupied by State and Federal law.

24           27.     In conjunction with the 2040 General Plan, the County also proposed separate  
25 “Amendments to the County’s Zoning Ordinances Regarding Oil and Gas Development” (the  
26 “Proposed Zoning Amendments”), which are designed to implement the Oil and Gas Policies of  
27 the 2040 General Plan. According to the County Planning Commission’s Staff Report, the  
28

1 Proposed Zoning Amendments, which are slated for adoption by the Board of Supervisors on  
2 November 10, 2020, would amend the County Zoning Code:

3 “to require the issuance of a new [Conditional Use Permit], or approval of a  
4 discretionary permit adjustment or modification, to authorize all new oil and gas  
5 development, including that proposed under [the Special Use Permits], unless the  
6 proposed development is already specifically described as being authorized under  
7 an existing CUP.” (July 30, 2020 Staff Report for PL20-0052, at 7).

8 28. The Special Use Permits held by Aera do not specifically describe the  
9 developments that are authorized. Rather, the Special Use Permits were understood and designed  
10 to grant the permit holder the right to fully develop its oil and gas resources, consistent with state  
11 and federal regulations, without specifically describing each authorized development. Thus, by  
12 altering the permitting process to now require a new Conditional Use Permit for all oil and gas  
13 development except that which has previously been “specifically described” in prior Special Use  
14 Permits the Proposed Zoning Amendments would require Aera to undergo discretionary review  
15 (and obtain a new Conditional Use Permit) prior to: (1) installing any new well, tank or other oil  
16 field facilities; or (2) re-drilling or deepening any existing well. As a result, the Proposed Zoning  
17 Amendments demonstrate the County’s intent to apply the Oil and Gas Policies of the 2040  
18 General Plan to all new wells, tanks, and other oil field facilities.

19 29. The Oil and Gas Policies significantly restrict Aera’s oil and gas production in the  
20 County. For example, Aera currently operates active wells and production facilities within 1,500  
21 feet of residential dwellings or 2,500 feet from a school. The Oil and Gas Policies (specifically  
22 COS 7.2) would prohibit Aera from maintaining or extending the productive life of those wells by  
23 re-drilling or deepening them, and would prohibit Aera from installing new wells in that area, all  
24 of which are necessary to maintain production over time. Additionally, the County’s requirement  
25 that all discretionary development for oil and gas exploration and production utilize electrically-  
26 powered equipment from 100 percent renewable sources and cogeneration (COS 7.4) would  
27 undermine Aera’s ability to drill new wells and re-drill existing wells in the Ventura Field by  
28 creating an undue risk to the health and safety of Aera’s workers, the public, and the environment.  
It also directly contradicts the Ventura County Air Pollution District’s (a special district with  
delegated authority from the State and EPA) rules specifically mandating the use of grid power

326878608.3

1 for all drilling operations. The County's prohibition on trucking oil and produced water within  
2 the County (COS 7.7) impermissibly disrupts, among other things, Aera's storage tank  
3 operations, which rely on trucks to transport oil and natural gas liquids to off-site facilities for  
4 further processing.

5 30. Given the hundreds of millions of dollars Aera has invested over decades of work  
6 at the Ventura Field, and the work done pursuant to, and in reliance upon the Special Use Permits,  
7 Aera's right to continue and to complete the development and production of its oil and gas  
8 resources at the Ventura Field is fully vested. The Oil and Gas Policies of the 2040 General Plan  
9 impose an unconstitutional taking on their face, as they severely constrain and, in some cases  
10 completely eliminate, Aera's vested right to continue the development and production of its oil  
11 and gas resources at the Ventura Field, including the right to drill new wells, re-drill or deepen  
12 existing wells, or install tanks, pipelines or other oilfield facilities.

13 **D. County Efforts to Impermissibly Impair Oil and Gas Operations**

14 31. The County has been impermissibly seeking to interfere with oil and gas  
15 operations since at least 2013, despite the fact such operations are exclusively regulated by  
16 CalGEM and despite the fact that the right to conduct such operations has vested. For example,  
17 on approximately May 21, 2013, the Board directed County staff to investigate the County's  
18 ability to regulate the use of fluids used in oil well stimulation and "the options available to  
19 address antiquated oil & gas permits" such as the Special Use Permits described above. On  
20 approximately December 17, 2013, County staff advised the Board that: (a) the County was  
21 preempted from adopting regulations relating to well stimulation fluids and (b) "the County has  
22 only a limited ability to address antiquated oilfield permits due to the vested rights doctrine and  
23 constitutional takings and due process principles."

24 32. In approximately 2014, County staff again advised County decision-makers that  
25 oil and gas operations authorized under antiquated oilfield permits cannot be further conditioned  
26 "through an ordinary exercise of the police power for the general welfare." And in approximately  
27 2015, County staff again advised County decision-makers that oil and gas operations authorized  
28 under antiquated oilfield permits "cannot be unilaterally impaired by the County under its general

326878608.3

1 land use authority.” Nevertheless, the County pressed forward with the Oil and Gas  
2 Amendments.

3 **E. The 2040 General Plan Environmental Impact Report**

4 33. As noted above, the County initiated an update to its existing general plan in  
5 approximately 2015. On or about January 14, 2019, the County issued a Notice of Preparation  
6 (“NOP”) of a Draft Environmental Impact Report (“DEIR”) for the Ventura County 2040 General  
7 Plan, announcing the beginning of the environmental review process for the 2040 General Plan.

8 34. On January 13, 2020, the County purported to release its Public Review Draft  
9 2040 General Plan and simultaneously issued a Notice of Availability (“NOA”) of a Draft  
10 Environmental Impact Report for the Ventura County 2040 General Plan (“DEIR”). However,  
11 the DEIR was not actually distributed until January 14, 2020. Despite the County’s  
12 acknowledgement of concurrent preparation, neither a draft 2021 Housing Element nor a draft  
13 Zoning Code Update was provided to the public, and the environmental impacts of an updated  
14 Housing Element and Zoning Code Update were not considered, analyzed, or discussed in the  
15 DEIR. No draft 2021 Housing Element has been released to the public to date.

16 35. Instead of releasing a comprehensive Zoning Code Update for public review  
17 concurrent with the 2040 General Plan, the County issued the Proposed Zoning Amendments  
18 separately. Despite the fact that the Proposed Zoning Amendments would work in tandem with  
19 the various new policies of the 2040 General Plan, the potentially significant impacts of the  
20 Proposed Zoning Amendments were not disclosed in the DEIR, and no separate environmental  
21 review was conducted. The Proposed Zoning Amendments are slated for adoption by the Board  
22 of Supervisors on November 10, 2020.

23 36. In addition to the Proposed Zoning Amendments, the 2040 General Plan  
24 contemplates myriad other amendments and updates to the County Zoning Code.

25 37. Aera reviewed both the Public Review Draft 2040 General Plan and the DEIR and  
26 noted myriad legal, factual, procedural, and substantive deficiencies in these documents. Aera  
27 prepared detailed comment letters apprising the County of those deficiencies and submitted  
28 comment letters during the DEIR’s public review and comment period. Aera also urged the  
326878608.3

1 County to revise and recirculate the DEIR and revise the Public Review Draft 2040 General Plan  
2 to bring both into compliance with the law. The County refused to do so.

3 38. Instead of significantly revising and recirculating the DEIR and/or the Public  
4 Review Draft 2040 General Plan to bring these documents into compliance with the law, the  
5 County instead prepared and released a Final Environmental Impact Report for the 2040 General  
6 Plan (“FEIR”) (together with the DEIR, “EIR”). Despite the FEIR’s 1,352-page length (plus  
7 another 2,361 pages of attachments), the County released the FEIR to the public late in the day on  
8 July 2, 2020, immediately prior to a federal holiday.

9 39. The FEIR included significant new information, new analysis, and incomplete  
10 responses to comments received by the County during the public review and comment period for  
11 the DEIR. For example, the FEIR recalculated greenhouse gas emissions generated by the oil and  
12 gas industry based on new and flawed data, but failed to provide a full public review and  
13 comment period during which Aera and the public could review and comment upon this new  
14 information and new analysis.

15 **F. County Planning Commission Consideration of the EIR and 2040 General Plan**

16 40. Despite the ongoing COVID-19 pandemic, and the various stay at home orders in  
17 place at the time, the County Planning Commission considered the 2040 General Plan, and the  
18 EIR, at its July 16, 2020, meeting. Aera and others urged the County to postpone the hearing  
19 until such time that the County could guarantee that no member of the community would be left  
20 out of the process as a result of either technological disparities or public health risks. The County  
21 refused to do so.

22 41. The County’s posted agenda for the July 16, 2020 Planning Commission meeting  
23 did not include any instructions regarding how to participate in the meeting virtually, and gave no  
24 indication that virtual participation was even an option. Instead, the County posted inconsistent  
25 and confusing instructions on virtual participation at other locations on the County website and  
26 then changed its instructions mere hours before the Planning Commission meeting.

27  
28

1           42.     During the meeting, the livestream feed “went offline” several times, and  
2 therefore, all members of the public participating virtually were unable to attend portions of the  
3 meeting.

4           43.     During the meeting, and prior to recommending approval and adoption of the 2040  
5 General Plan and certification of the EIR, Planning Commissioners stated that the policies  
6 incorporated into the 2040 General Plan – prior to CEQA review – had already been immutably  
7 “adopted” by the Board in September 2019, and that any document that the Planning Commission  
8 recommends to the Board for approval should include only those policies previously “adopted”  
9 by the Board. Specifically, Chairman White admonished County staff for implying that proposed  
10 General Plan policies could be, or had been, modified by the information contained in the EIR, or  
11 that the Planning Commission should consider the EIR in recommending the policies and  
12 programs of the 2040 General Plan to the Board. Said Chairman White, “[w]e are not the  
13 deciders on these policies and programs. The Board is the decider.” Such statements underscore  
14 that the Commissioners: failed to utilize their independent judgment in reviewing both the 2040  
15 General Plan and its EIR; that the Commission hearing was meaningless and a sham; and that the  
16 County predetermined and effectively “adopted” the 2040 General Plan before completing  
17 environmental review and prior to the public hearings on the same.

18           44.     Despite the numerous issues described above, the Planning Commission adopted a  
19 motion recommending approval and adoption of the 2040 General Plan and certification of the  
20 EIR to the Board.

21     **G.     The Board’s EIR Certification and 2040 General Plan Adoption**

22           45.     Mere days after the Planning Commission hearing, on July 20, 2020, the County  
23 closed its administrative offices completely and moved to an entirely virtual meeting schedule.  
24 On September 1, 2020, the Board considered the 2040 General Plan and its EIR exclusively  
25 utilizing the demonstrably defective virtual platform.

26           46.     At the conclusion of the meeting, the Board closed the public hearing, but then  
27 also directed County Staff to make several revisions to the 2040 General Plan and EIR documents  
28 and bring them back for approval on September 15, 2020. No additional environmental analysis  
326878608.3

1 was performed to determine whether these revisions would result in new or different  
2 environmental impacts from those disclosed to the public in the EIR.

3 47. On September 15, 2020, the Board adopted Resolution No 20-106, which certified  
4 the EIR, adopted CEQA Findings of Fact and a Statement of Overriding Considerations, adopted  
5 a Mitigation Monitoring Program, repealed the existing General Plan except for portions  
6 constituting the 2014-2021 Housing Element, and approved and adopted the 2040 General Plan  
7 and 2040 General Plan Background Report.

8 **STANDING, EXHAUSTION AND OTHER JURISDICTIONAL REQUIREMENTS**

9 48. Aera participated in the administrative process that resulted in the County's  
10 decision to approve the 2040 General Plan and certify the EIR for the same.

11 49. Aera has exhausted all administrative remedies prior to filing this action.  
12 Specifically, Aera has objected to the County's actions relating to the 2040 General Plan in  
13 multiple correspondences with the County. Aera has submitted public comments to the County  
14 during the public review and comment period for the DEIR, prior to, and in reference to, the  
15 County's July 16, 2020, Planning Commission Hearing, and prior to, and in reference to, the  
16 County's September 1, 2020 and September 15, 2020 Board Hearings.

17 50. Aera has complied with all conditions imposed by law prior to filing this action,  
18 including complying with the requirement of Public Resources Code section 21167.5, by  
19 providing notice to the County that this action would be filed. Aera served a Notice of Intent to  
20 File this Petition on the County Clerk's Office by mail on October 9, 2020, a true and correct  
21 copy of which is attached hereto as **Exhibit B**.

22 51. Aera has also complied with Public Resources Code section 21167.7 by providing  
23 notice and copy of this Petition to the California Attorney General on October 15, 2020.

24 52. Aera hereby, and by a separate election filed herewith, notifies the County that  
25 Aera elects to prepare the record of proceedings for the 2040 General Plan in compliance with  
26 Public Resources Code section 21167.6, subdivision (b)(2).

27 53. No valid statute of limitation bars this complaint.

28 54. Aera does not have a plain, speedy, or adequate remedy at law.

326878608.3



1 3347); spacing of wells (§§ 3600-3609); unit operations (§§ 3635-3690); and regulation of oil  
2 sumps (§§ 3780-3787). CalGEM's implementing regulations are also extensive and "statewide in  
3 application for onshore drilling, production, and injection operations." 14 Cal. Code Regs.  
4 §1712.

5 60. CalGEM is exclusively empowered to regulate operations of oil fields, including  
6 approval and operation of new wells in existing fields. As a result, CalGEM written approval is  
7 required prior to commencing all well operations, including but not limited to drilling, reworking,  
8 and abandoning wells. 14 Cal. Code Regs. §1714. The comprehensive system of regulations is  
9 designed to empower CalGEM to "encourage the wise development of oil and gas resources."  
10 Pub Res. Code §3106(d).

11 61. The County has a clear, present, mandatory, nondiscretionary, and/or ministerial  
12 duty under the facts of this case to vacate the Oil and Gas Policies of the 2040 General Plan that  
13 restrict or halt Aera's development and production of its oil and gas resources at the Ventura Oil  
14 Field. The Oil and Gas Policies are preempted by State and Federal law and are void.

15 62. Aera has a fully vested right to continue and to complete the development of its oil  
16 and gas resources at the Ventura Field that is protected by Art. I §§ 1 and 19 of the California  
17 Constitution. The Oil and Gas Policies of the 2040 General Plan effect an unconstitutional *per se*  
18 taking of Aera's vested right to continue the development and production of the Ventura Field.

19 63. The County's 2040 General Plan Oil and Gas Policies thus purport to unlawfully  
20 restrict Aera's continued development and production of its oil and gas resources at the Ventura  
21 Field in excess of the County's power, authority and jurisdiction, and constitute an abuse of the  
22 County's discretion. Aera is entitled to the issuance of a writ of mandate directing the County to  
23 vacate Resolution No. 20-106 adopting the 2040 General Plan and the Oil and Gas Policies  
24 contained therein.

25 64. Aera has exhausted all available administrative remedies with respect to this facial  
26 challenge to the 2040 General Plan. Aera has no plain, speedy, and adequate remedy in the  
27 ordinary course of law. This Petition was filed timely.

28

326878608.3

- 17 -

1 **SECOND CAUSE OF ACTION**

2 **(For Declaratory Relief, Preemption)**

3 65. Aera incorporates by reference the allegations contained in paragraphs 1 through  
4 64, above.

5 66. The 2040 General Plan, and specifically the provisions regulating oil and gas  
6 resources, expressly and impliedly contradict and enter an area fully occupied by comprehensive  
7 State and Federal laws. As such, they are preempted and void.

8 67. The County lacks the power, authority, and jurisdiction to regulate the drilling,  
9 operation and maintenance of oil and gas wells, as those powers are exclusively functions of the  
10 State of California. The laws of the State of California preempt and fully occupy the regulation  
11 of drilling of oil and gas wells within the State of California. The County, through the 2040  
12 General Plan, attempts to regulate aspects of oil and gas development and production that are  
13 fully occupied by State law and, in fact, the Oil and Gas Policies conflict with superior law. The  
14 2040 General Plan is preempted, in whole or in part, by State law, and, as such, the provisions of  
15 the 2040 General Plan relating to oil and gas drilling and operations are invalid and without  
16 effect.

17 68. Aera is informed and believes, and thereon alleges, that the County disputes the  
18 contentions set forth above and nevertheless intends to regulate Petitioner's oil and gas drilling  
19 and operations via the 2040 General Plan.

20 69. Judicial intervention in this dispute, and a declaration by the Court, is necessary to  
21 resolve whether the 2040 General Plan is preempted, in whole or in part, by Federal and/or State  
22 law.

23 **THIRD CAUSE OF ACTION**

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

25 70. Aera incorporates by reference the allegations contained in paragraphs 1 through  
26 69, above.

27 71. CEQA mandates "that the long-term protection of the environment . . . shall be the  
28 guiding criterion in public decisions." (Pub. Resources Code, § 21101(d).) To that end, CEQA

326878608.3

1 requires that public agencies analyze and disclose the environmental impacts of their actions prior  
2 to their approval. (Pub. Resources Code, § 21080(a); State CEQA Guidelines [Cal. Code Regs.,  
3 tit. 14, § 15000 et seq.], §§ 15004, 15352(b); *Save Tara v. City of West Hollywood* (2008) 45  
4 Cal.4th 116 [“*Save Tara*”].)

5 72. CEQA’s mandates are procedural and informational, as well as substantive.  
6 CEQA *requires* that public agencies avoid or significantly reduce environmental impacts  
7 whenever feasible by implementing project alternatives and mitigation measures. (Pub.  
8 Resources Code, § 21001(g).)

9 72. A public agency abuses its discretion and fails to proceed in the manner required  
10 by law when its actions or decisions do not substantially comply with the requirements of CEQA.  
11 (Pub. Resources Code, §§ 21168, 21168.5.)

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

17 74. Whether an environmental impact report fails to include the information necessary  
18 for an adequate analysis of an environmental issue is a question of law, and when reviewed by the  
19 courts, the courts do not defer to an agency’s determinations. (*Madera Oversight Coalition, Inc.*  
20 *v. County of Madera* (2001) 199 Cal.App.4th 48, 102 [“whether an EIR is sufficient as an  
21 informational document is a question of law subject to independent review by the courts”].)

22 75. Failure to comply with the basic substantive requirements of CEQA is necessarily  
23 prejudicial error, requiring the decertification of any environmental impact report and vacation of  
24 any approvals adopted in reliance upon the same. (*North Coast Rivers Alliance v. Kawamura*  
25 (2015) 243 Cal.App.4th 647, 671.)

26 76. The County has violated CEQA by failing to prepare an adequate environmental  
27 impact report that meets all of CEQA’s procedural and substantive mandates prior to the Board’s  
28 action on September 15, 2020 to approve and adopt the 2040 General Plan.

326878608.3

1           77.     The County has violated CEQA by engaging in improper and illegal piecemealing  
2 and project segmentation, which occurs when a public agency chops up a proposed project into  
3 smaller pieces to create the illusion of fewer environmental impacts, and to hide the true  
4 magnitude of its actions. (*Tuolumne County Citizens for Responsible Growth, Inc. v. City of*  
5 *Sonora* (2007) 155 Cal.App.4th 1214 [CEQA “cannot be avoided by chopping up proposed  
6 projects into bite-sized pieces which, individually considered, might be found to have no  
7 significant effect on the environment”].) CEQA requires that public agencies analyze the “whole  
8 of the project,” which includes all related actions, all implementation actions, and all reasonably  
9 foreseeable subsequent actions. (State CEQA Guidelines, § 15378(a), (c)-(d).)

10           78.     Among other failings, the County has illegally piecemealed environmental  
11 analysis by:

- 12           (a)     Omitting and ignoring the County’s pending 2021-2029 Housing Element  
13 in the environmental review and adoption of the 2040 General Plan, despite  
14 the fact that the 2021-2029 Housing Element will require near immediate  
15 and wholly foreseeable revisions to the 2040 General Plan that will change  
16 the magnitude of the impacts disclosed in the 2040 General Plan EIR;
- 17           (b)     Refusing to analyze the environmental impacts of the implementation  
18 actions established and required by the 2040 General Plan, despite the fact  
19 these are reasonably foreseeable and part of the “whole of the project”; and
- 20           (c)     Purposefully considering the Proposed Zoning Amendments in a separate  
21 action and without CEQA review, in a classic example of “chopping up  
22 proposed projects into bite-sized pieces which, individually considered,  
23 might be found to have no significant effect on the environment.”

24           79.     The County has violated CEQA by failing to provide a complete, adequate, and  
25 concrete project description within the DEIR. EIR project descriptions must be accurate, stable,  
26 consistent, complete, include all components of a proposed project, and include all foreseeable  
27 future activities that are consequences of the project to be approved. (*County of Inyo v. City of*  
28 *Los Angeles* (1977) 71 Cal.App.3d 185, 199.) The County’s failure to provide an accurate project  
326878608 3

1 description violates CEQA on its own, and also undermines each and every environmental impact  
2 analysis contained within the DEIR.

3 80. Among other failings, the DEIR’s project description is impermissibly vague and  
4 incomplete in that it:

- 5 (a) Fails to identify the location and buildout of new land use designations,  
6 making it impossible to analyze fully the impacts of the proposed land use  
7 plan;
- 8 (b) Fails to describe—even in the most general sense—the goals, policies and  
9 implementation programs that will be imposed as a result of 2040 General  
10 Plan adoption and which are likely to result in physical impacts;
- 11 (c) Buries and scatters key project details throughout a separate, 1,000+ page  
12 appendix, and ignores and wholly omits key aspects and reasonably  
13 foreseeable implementation actions of the 2040 General Plan, such as the  
14 concurrently-prepared 2021-2029 Housing Element and the Proposed  
15 Zoning Amendments that will be required to implement the 2040 General  
16 Plan;
- 17 (d) Fails to account for last-minute revisions and additions made to the 2040  
18 General Plan by County Staff and the Board of Supervisors, long after  
19 CEQA review had been completed; and
- 20 (e) Relies upon flawed assumptions, including but not limited to, erroneous  
21 growth projections and false assumptions relating to existing greenhouse  
22 gas emissions within the County.

23 81. The County has violated CEQA by failing to adequately describe the existing  
24 environmental setting and project baseline, against which the impacts of the 2040 General Plan  
25 must be compared. (State CEQA Guidelines, §§ 15125, 15126.2(a)). Environmental impact  
26 reports *must* “delineate environmental conditions prevailing absent the project, defining a  
27 ‘baseline’ against which predicted effects can be described and quantified” and failure to do so  
28 results in a fundamental inability to accurately analyze and disclose environmental impacts.

326878608.3

1 (*Neighbors for Smart Rail v. Exposition Metro Line Constr. Auth.* (2013) 57 Cal.4<sup>th</sup> 439, 447.)

2 82. Among other failings, the EIR’s description of the existing environmental setting  
3 and project baseline is flawed in that it:

- 4 (a) Impermissibly buries description of the existing environmental setting in a  
5 1,000+ page appendix;
- 6 (b) Presents a biased and incomplete accounting of the County’s existing  
7 greenhouse gas emissions generators; and
- 8 (c) Relies upon unsupported assumptions, such as a growth rate “chosen by  
9 direction of the County Board of Supervisors” instead of one based upon  
10 substantial evidence.

11 83. The County has violated CEQA by failing to adequately analyze the 2040 General  
12 Plan’s impacts on the existing environment. (Pub. Resources Code, §21100(b); State CEQA  
13 Guidelines, §§ 15126, 15126.2).

14 84. Specifically, the County has failed to adequately analyze and disclose impacts of  
15 the 2040 General Plan on aesthetics, agricultural resources, air quality, biological resources,  
16 cultural and tribal cultural resources, energy and energy stability, geological hazards, greenhouse  
17 gas emissions, hazards and hazardous materials, human health, wildfire, hydrology, water quality,  
18 water consumption and conservation, land use planning, mineral and petroleum resources, noise  
19 and vibration, population and housing, public services and recreation, and transportation and  
20 traffic. Relatedly, the County has failed to analyze adequately and disclose cumulative impacts.

21 85. By way of example, just some of the ways in which the County’s environmental  
22 impacts analysis was flawed, include:

- 23 a) Ignoring the air quality impacts associated with implementation of 2040 General  
24 Plan Policies COS-7.1, 7.3, 7.4, 7.7, and 7.8;
- 25 b) Failing to account for air quality impacts associated with favoring imported oil  
26 over oil produced within the County;
- 27 c) Failing to consider and disclose impacts on local and statewide energy supplies,  
28 requirements for additional energy capacity, impacts on demands for energy, and

1 impacts on energy resources, as required by Appendix F to the State CEQA  
2 Guidelines;

- 3 d) Failing to account for the greenhouse gas emissions associated with importing  
4 crude oil developed and produced elsewhere, and shipped, piped, or trucked to  
5 refineries that would otherwise process crude oil from the County;
- 6 e) Failing to identify substantial evidence supporting the EIR's conclusions relating  
7 to hazards and hazardous materials;
- 8 f) Failing to analyze changes in water consumption associated with construction,  
9 including construction of oil and gas pipelines, and related impacts on hydrology  
10 and water quality;
- 11 g) Failing to analyze and disclose impacts on mineral and resource accessibility;
- 12 h) Failing to account for the impacts associated with meeting the County's Regional  
13 Housing Needs Allocation obligations, under which the South Coast Association  
14 of Governments allocates a given portion of California's housing need to the  
15 County, and the County must revise its General Plan and Zoning to accommodate  
16 that growth; and
- 17 i) Failing to account for all reasonably foreseeable new car and truck trips.

18 86. The County has violated CEQA by relying upon mitigation measures and 2040  
19 General Plan goals, policies and programs, that are legally preempted and therefore cannot be  
20 considered to reduce potentially significant environmental impacts. CEQA requires that  
21 mitigation measures be fully enforceable, as well as consistent with applicable constitutional  
22 standards. (State CEQA Guidelines, § 15126.4(a)(2), (4).) Nevertheless, the DEIR incorporates  
23 into its analysis of environmental impacts actions, policies, and programs that are preempted by  
24 State or Federal law, violate existing private property rights, or are simply infeasible, in violation  
25 of CEQA.

26 87. The County has violated CEQA by failing to consider, analyze, or disclose the  
27 environmental impacts of the EIR's mitigation measures.

1           88.     The County has violated CEQA by failing to consider or by wholesale rejecting,  
2 without adequate explanation or analysis, alternative or revised mitigation measures brought  
3 forward by Aera, others, and/or the County’s own planning staff and retained CEQA consultant  
4 and that would reduce or eliminate the significant impacts identified in the EIR, or that were  
5 erroneously left out of the EIR due to the EIR’s flawed impacts analysis.

6           89.     The County has violated CEQA by failing to identify a reasonable range of  
7 alternatives, and by providing only a flawed alternatives analysis, based upon an incomplete,  
8 vague, and piecemealed project description, and a flawed impacts analysis.

9           90.     The County has violated CEQA by failing to revise and recirculate the DEIR,  
10 despite its failure to meet CEQA’s substantive and procedural mandates.

11          91.     The County has violated CEQA by failing to adequately respond to comments  
12 raised by Petitioner and others during the public comment and review period for the DEIR.

13          92.     The County has violated CEQA by adding significant new information to the FEIR  
14 without revision and recirculation of the DEIR.

15          93.     The County has violated CEQA by failing to make adequate findings of fact  
16 supporting certification of the EIR.

17          94.     The County has violated CEQA by failing to adopt an adequate Statement of  
18 Overriding Considerations prior to adoption of the 2040 General Plan.

19          95.     The County has violated CEQA by committing illegal “predetermination” and  
20 committing itself to “adopted” General Plan policies and programs as early as September 2019,  
21 despite the fact that the 2040 General Plan’s Draft EIR was not completed until January 2020, and  
22 its Final EIR not completed until July 2020.

23          96.     The County has failed to proceed in the manner required by law, and thereby  
24 prejudicially abused its discretion by failing to comply with CEQA’s mandates.

25          97.     Aera has no plain, speedy, and adequate remedy other than the issuance of a writ  
26 of mandate ordering the County to forgo any and all steps in furtherance of the 2040 General Plan  
27 unless and until it complies with CEQA. (Pub. Resources Code, § 21168.9.)

28

326878608.3

1 **FOURTH CAUSE OF ACTION**

2 **(Declaratory Relief, Vested Rights)**

3 98. Aera incorporates by reference the allegations contained in paragraphs 1 through  
4 97, above.

5 99. Aera contends that it has a fully vested right to continue and to complete the  
6 development and production of its oil and gas resources in the County, consistent with its long-  
7 established plans and permits, including, without limitation, Aera's vested rights in its Special  
8 Use Permits, CalGEM permits issued and to be issued to Aera, and Aera's vested rights to obtain  
9 ministerial permits for its ongoing operations to drill new wells and to re-drill or deepen existing  
10 wells in the County in accordance with permitting procedures established by the State of  
11 California and Federal law.

12 100. Oil and gas is a diminishing asset, the extraction of which is expected to continue  
13 across the entire property covered by Aera's Special Use Permits. *Hansen Bros. Enterprises, Inc.*  
14 *v. Board of Supervisors*, 12 Cal.4th 533 (1996). Aera has long exhibited its intent to extend its oil  
15 and gas operations to its entire property consistent with its vested rights.

16 101. Aera is informed and believes, and thereon alleges, that the County disputes  
17 Aera's contentions set forth above, and intends to restrict Aera's oil and gas operations by way of  
18 the 2040 General Plan, and specifically the Oil and Gas Policies contained therein.

19 102. Judicial intervention in this dispute, and a declaration by the Court, is necessary to  
20 resolve whether Aera has a vested right to continue and to complete the development and  
21 production of its oil and gas resources in the County.

22 **FIFTH CAUSE OF ACTION**

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

25 103. Aera incorporates by reference the allegations contained in paragraphs 1 through  
26 102, above.

27 104. By purporting to eliminate Aera's vested right to continue and to complete the  
28 development and production of its oil and gas resources within the County, the 2040 General Plan  
326878608.3

1 effects a taking of Aera's property. The economic impact of the 2040 General Plan will be  
2 severe, as it would virtually eliminate the economic value of Aera's property. Furthermore, the  
3 2040 General Plan interferes with Aera's reasonable investment-backed expectations, as Aera  
4 reasonably expected it could exercise its existing, lawful, and fully vested right to continue and to  
5 complete the development and production of its oil and gas resources within the County.

6 105. The 2040 General Plan will force Aera to bear public burdens which, in all fairness  
7 and justice, should be borne by the public as a whole. In enacting the 2040 General Plan the  
8 County violates Article 1, Section 19 of the California Constitution, which prohibits the taking or  
9 damaging of private property for public use without just compensation. The County also violates  
10 the takings clause of the Fifth Amendment to the United States Constitution.

11 106. As a direct result of the County's actions as alleged herein, the Oil and Gas  
12 Policies of the 2040 General Plan constitute a taking. To date, Aera has not received any  
13 compensation from the County as a result of the above alleged taking or damage to Aera's  
14 property rights.

15 107. Aera has been and will be damaged from the taking of its property rights in the  
16 Ventura Field, and will suffer damages in an amount to be determined at trial.

17 **SIXTH CAUSE OF ACTION**

18 **(Violation of Substantive Due Process)**

19 108. Aera incorporates by reference the allegations contained in paragraphs 1 through  
20 107, above.

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

26 110. The 2040 General Plan is impermissibly vague because it fails to provide adequate  
27 notice to those who must comply with its strictures of what conduct is prohibited and what is  
28 allowed. For example, the 2040 General Plan purports to require "discretionary development for  
326878608.3

1 oil and gas exploration and production to use electronically-powered equipment from 100 percent  
2 renewable sources and cogeneration, where feasible, to reduce air pollution and greenhouse gas  
3 emissions from internal combustion engines and equipment.” The term “discretionary  
4 development for oil and gas exploration and production” is vague and uncertain. People of  
5 ordinary intelligence will differ as to whether it applies to each and every aspect of Aera’s  
6 business that relates in any way to oil and gas exploration and production, or some subset of the  
7 business that constitutes actual oil and gas exploration, or production, or both. It is also unclear  
8 when the use of electronically powered equipment from 100 percent renewable sources is feasible  
9 or infeasible, and who makes that determination based on what criteria. A statute is  
10 impermissibly vague if it delegates basic policy matters to judges and juries for resolution. The  
11 2040 General Plan does so.

12 111. The 2040 General Plan also states: “oil and produced water shall not be trucked.”  
13 (COS 7.7). It is unclear whether that constitutes a blanket prohibition against the transportation  
14 of any amount of oil or produced water, for any purpose, via truck throughout the County, or if  
15 the transportation of some amount of oil or produced water, for certain purposes, is permitted.

16 112. Due to the vague and uncertain composition of the Oil and Gas Policies in the  
17 2040 General Plan, the County has failed to provide Aera, or the public, with adequate notice of  
18 what conduct is required.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Aera prays for the following relief:

- 21 1. For writ of mandate directing the County to vacate Resolution No. 20-106  
22 adopting the 2040 General Plan and the Oil and Gas Policies contained therein, certifying the  
23 2040 General Plan Final Environmental Impact Report, adopting the CEQA Findings of Fact and  
24 Statement of Overriding Considerations, and adopting the Mitigation Monitoring Program;
- 25 2. For a declaration that the 2040 General Plan is preempted, in whole or in part, by  
26 Federal and/or State law, and is invalid and without effect, including as to Aera’s operations  
27 within the County;

28

326878608.3

1           3.       For just compensation, according to proof, for the taking of property in violation of  
2 the Fifth Amendment to the United States Constitution and Article I, § 19 of the California  
3 Constitution;

4           4.       For a declaration that the 2040 General Plan violates the due process clauses of the  
5 United State and California Constitutions and is invalid and without effect, including as to Aera's  
6 operations within the County;

7           5.       For a preliminary and permanent injunction prohibiting the County from  
8 implementing and/or enforcing the 2040 General Plan.

9           6.       For damages in an amount that exceeds the jurisdictional minimum, plus interest  
10 thereon, for the taking of and/or damage to Aera's property, the precise amount to be proven at  
11 the time of trial;

12           7.       For costs of suit and attorneys' fees to the extent allowed by law; and

13           8.       For such other relief as the Court determines is just and proper.

14  
15 Dated: October 15, 2020

MANATT, PHELPS & PHILLIPS, LLP

16  
17 By: David T. Moran

18 David T. Moran  
19 Attorneys for Petitioner and Plaintiff  
20 AERA ENERGY LLC  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

William J. Spear III declare as follows:

I am the Ventura Manager of Operations for Aera Energy, LLC. I have read the foregoing Aera Energy, LLC’s Verified Petition for Writ of Mandate. 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 14th day of October, 2020 at Ventura County, California.

DocuSigned by:  
*William J. Spear III*  
B78D433278CAWPC  
\_\_\_\_\_  
William J. Spear

# **EXHIBIT A**



445(North)

19

65

48-B

19

45

35

445(South)

Ventura  
County

19

65

48-B

35

33

48

3573

**Legend**

- Permit Boundaries
- Counties

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNR/Airbus, USDA, AeroGRID, IGN, and the GIS User Community

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNR/Airbus, USDA, AeroGRID, IGN, and the GIS User Community

# **EXHIBIT B**

October 9, 2020

**VIA U.S. MAIL & EMAIL**

County of Ventura Board of Supervisors  
Office of the County Clerk  
Government Center  
Hall of Administration, Main Plaza  
800 South Victoria Avenue  
Ventura, CA 93009-1260  
[clerkoftheboard@ventura.org](mailto:clerkoftheboard@ventura.org)

**Re: Notice of Commencement of CEQA Litigation Challenging the Certification of the 2040 General Plan Environmental Impact Report (State Clearinghouse No. 2019011026) and Adoption of the 2040 General Plan**

Dear Sir/Madam:

Please take notice that Aera Energy LLC intends to file suit against the County of Ventura and the Ventura County Board of Supervisors for failing to comply with the requirements of the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) in certifying the County's 2040 General Plan Environmental Impact Report (State Clearinghouse No. 2019011026) and adopting the 2040 General Plan. Aera intends to also raise non-CEQA claims in its lawsuit. This notice is given pursuant to Public Resources Code section 21167.5.

Sincerely,

*David T. Moran*

David T. Moran

DTM

County of Ventura Board of Supervisors  
Office of the County Clerk  
October 9, 2020  
Page 2

## **PROOF OF SERVICE**

I, Brigette Scoggins, declare as follows:

I am employed in Los Angeles County, Los Angeles, California. I am over the age of eighteen years and not a party to this action. My business address is Manatt, Phelps & Phillips, LLP, 11355 West Olympic Boulevard, Los Angeles, California 90064-1614. On **October 9, 2020**, I served the within: **LETTER RE NOTICE OF COMMENCEMENT OF CEQA LITIGATION CHALLENGING THE CERTIFICATION OF THE 2040 GENERAL PLAN ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 2019011026) AND ADOPTION OF THE 2040 GENERAL PLAN** on the interested parties in this action addressed as follows:

County of Ventura Board of Supervisors  
Office of the County Clerk  
Government Center  
Hall of Administration, Main Plaza  
800 South Victoria Avenue  
Ventura, CA 93009-1260  
Email: [clerkoftheboard@ventura.org](mailto:clerkoftheboard@ventura.org)

- (BY MAIL)** By placing such document(s) in a sealed envelope, with postage thereon fully prepaid for first class mail, for collection and mailing at Manatt, Phelps & Phillips, LLP, Los Angeles, California following ordinary business practice. I am readily familiar with the practice at Manatt, Phelps & Phillips, LLP for collection and processing of correspondence for mailing with the United States Postal Service, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for collection.
- (BY ELECTRONIC MAIL)** By transmitting such document(s) electronically from an Manatt email address, [bscoggins@manatt.com](mailto:bscoggins@manatt.com) at Manatt, Phelps & Phillips, LLP, Los Angeles, California, to the person(s) at the electronic mail addresses listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on **October 9, 2020**, at Los Angeles, California.

  
Brigette Scoggins