

OCT 15 2020

AFTER 4:00 P.M.

1 JEFFREY D. DINTZER (State Bar No. 139056)  
 2 MATTHEW C. WICKERSHAM (State Bar No. 241733)  
 3 GREGORY S. BERLIN (State Bar No. 316289)  
 4 GINA M. ANGIOLILLO (State Bar No. 323454)  
 5 ALSTON & BIRD LLP  
 6 333 South Hope Street, 16th Floor  
 7 Los Angeles, CA 90071-1410  
 8 Telephone: 213-576-1000  
 9 Facsimile: 213-576-1100  
 10 E-mail: jeffrey.dintzer@alston.com  
 11 matt.wickersham@alston.com

12 Attorneys for Petitioner and Plaintiff CALIFORNIA  
 13 RESOURCES CORPORATION

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF VENTURA

16 CALIFORNIA RESOURCES CORPORATION, a  
 17 Delaware corporation,

18 Petitioner and Plaintiff,

19 v.

20 COUNTY OF VENTURA, a political subdivision  
 21 of the State of California; VENTURA COUNTY  
 22 BOARD OF SUPERVISORS; and DOES 1 through  
 23 20, inclusive,

24 Respondents and Defendants.

Case No. \_\_\_\_\_

**CEQA CASE**

**VERIFIED PETITION FOR WRIT OF  
 MANDAMUS AND COMPLAINT FOR  
 DAMAGES AND DECLARATORY  
 RELIEF**

**JURY TRIAL DEMANDED**

5/8

1 Plaintiff CALIFORNIA RESOURCES CORPORATION (“CRC”) hereby petitions this  
2 Court for a writ of mandamus pursuant to Code of Civil Procedure Section 1085 (or alternatively  
3 under Section 1094.5), directed to Respondent and Defendant COUNTY OF VENTURA  
4 (“County”), and the VENTURA COUNTY BOARD OF SUPERVISORS (collectively,  
5 “Defendants”) and hereby bring this Petition for Writ of Mandamus and Complaint for  
6 Declaratory Relief and Damages. By this verified pleading, CRC hereby alleges as follows:

7 **INTRODUCTION**

8 1. This action challenges the General Plan Update (“GPU”) adopted by the County  
9 and the Ventura Board of Supervisors. CRC is informed and believed that that GPU was adopted  
10 on September 15, 2020.

11 2. The GPU adds new restrictions for oil and gas development within the County  
12 including new setbacks, restrictions on permits, and a prohibition on flaring.

13 3. In the Complaint for Declaratory Relief and Damages, CRC seeks declaratory  
14 relief and damages on the grounds that:

- 15 a. CRC has a vested right to pursue the full scale of oil and gas operations in the  
16 County as authorized under existing permits.
- 17 b. The adoption of the GPU is a temporary and permanent taking of CRC’s private  
18 property for public use without prior compensation in violation of Article I,  
19 section 19 of the California Constitution and the Takings Clause of the Fifth  
20 Amendment of the United States Constitution, and incorporated by the  
21 Fourteenth Amendment.
- 22 c. The adoption of the GPU violates CRC’s substantive due process under Article  
23 I, section 7 of the California Constitution and the Fourteenth Amendment of the  
24 United States Constitution. The GPU infringes on CRC’s property rights in an  
25 arbitrary, irrational, and discretionary manner, which is not related to any  
26 legitimate governmental purpose.
- 27



1 some manner or for some reason, responsible for the damage caused to Plaintiff and is subject to  
2 the relief being sought in this pleading.

3 **JURISDICTION AND VENUE**

4 10. This Court has jurisdiction pursuant to Article I, section 19 of the California  
5 Constitution, California Code of Civil Procedure sections 1060, 1085 and 1094.5, and Public  
6 Resources Code section 21168.5 (alternatively section 21168).

7 11. CRC has complied with Public Resources Code section 21167.5 by serving a  
8 letter notifying the County of its intent to file this Petition. CRC served the letter on October 13,  
9 2020. Proof of Service of this notification, with the notification, is attached as Exhibit A.

10 12. CRC has elected to prepare the record of proceedings in the above-captioned  
11 proceeding or to pursue an alternative method of record preparation pursuant to Public Resources  
12 Code Section 21167.6(b)(2). Notification of the Election to Prepare the Administrative Record is  
13 attached as Exhibit B.

14 13. CRC has complied with the requirements of Public Resources Code section  
15 21167.7 and Code of Civil Procedure section 388 by mailing a copy of this Petition to the  
16 California Attorney General on October 15, 2020. A copy of the letter transmitting the Petition  
17 to the Attorney General with Proof of Service is attached as Exhibit C.

18 14. CRC has performed any and all conditions precedent to filing this instant action  
19 and has exhausted any and all administrative remedies to the extent required by law, including,  
20 but not limited to, submitting extensive written comments objecting to the certification of the  
21 EIR and approval of the GPU. All issues raised in the petition for a writ of mandamus were  
22 raised before the County by CRC, other members of the public, or public agencies prior to  
23 approval of the GPU.

24 15. This Petition is timely filed within 30 days after Respondents' decision to issue a  
25 Notice of Determination in accordance with Public Resources Code section 21167(c).

26 16. CRC has no plain, speedy, or adequate remedy in the court of ordinary law  
27 because CRC will be irreparably harmed by the ensuing damage caused by implementation of

1 the GPU and Respondents' violations of CEQA, as well as other aspects of state law. In the  
2 absence of such remedies, the County's approval will remain in effect in violation of state law.

3 17. No claim is required to be filed to maintain an inverse condemnation claim  
4 against a public entity pursuant to California Government Code section 905.1.

5 18. Venue is proper in this Court because CRC's operates oil and gas wells in  
6 Ventura County, Defendant Board of Supervisors of Ventura County operates in Ventura County,  
7 Ventura County is a public entity located in Ventura County, and the violations of Plaintiffs' rights  
8 occurred in Ventura County.

9 **FACTUAL AND LEGAL STATEMENT**

10 **A. Oil and Gas Development in Ventura County**

11 19. Oil and gas have been produced in Ventura County for over a century. Production  
12 of these resources commenced in Ventura County after the discovery of the Ojai oil field in the late  
13 1860s. Numerous other oil fields have since been discovered in the County, which has become one  
14 of the major producing areas in the State of California. Over 12,000 wells have been drilled in the  
15 Ventura Basin (which covers Ventura County and a portion of Los Angeles County). There are  
16 currently about 3,800 active wells in Ventura County. There are approximately 57 oil companies  
17 operating in Ventura County under the authority of 135 conditional use permits granted by the  
18 County which authorize oil and gas activities.

19 20. Crude oil production in the County totaled 6.9 million barrels in 2018, making  
20 Ventura the fourth largest oil producing county in California.<sup>1</sup>

21 21. The local O&G industry also provides valuable economic and fiscal benefits to  
22 Ventura County. The industry is an important source of high paying, full time jobs, many of them  
23 in occupations open to those with high-school and technical degrees. An estimated 1,950 jobs in  
24 Ventura County are attributable to the oil and gas production industry, of which 760 are workers  
25 directly employed by oil major oil producers and support companies, and 1,190 are workers

26 \_\_\_\_\_  
27 <sup>1</sup> Capital Matrix Consulting, *Impact of Ventura County's General Plan Update on the Oil and Gas  
Production Industry* (Feb. 2020).

1 employed by companies that supply goods and services to the oil and gas producers and their  
2 employees.

3 22. The oil and gas industry is also an important source of taxes paid to state and local  
4 governments in the region, supporting local schools, public safety, and other vital services. The  
5 industry is also responsible for \$36 million in state taxes and \$20 million in local taxes annually in  
6 the County. The local taxes support school districts, public safety, and other vital services within  
7 the County. Contributions from the oil and gas production industry are expected to expand over the  
8 next decade prior to the adoption of the GPU, assuming that “that producers are able to obtain  
9 permits and initiate new projects to replace natural decline in oil and gas output from existing  
10 wells over time.”<sup>2</sup>

11 23. The General Plan, which is mandated by state law, sets forth the goals, policies  
12 and directions the County will take in managing planning for the future. The GPU contains eight  
13 policies (COS 7.1- COS 7.8) regarding oil and gas development in the County.

14 **B. CRC’s Operations in Ventura County**

15 24. CRC currently owns considerable acreage in Ventura County, in both mineral fee  
16 and leasehold, and has invested significantly in exploration activities required to further develop  
17 these interests. CRC also holds valuable property interests as lessee and operator of mineral rights  
18 within the County.

19 25. CRC operates and develops 27 fields in the Ventura Basin consisting of primary  
20 conventional, improved oil recovery, enhanced oil recovery and unconventional project types.  
21 CRC holds 232,000 net mineral acres in the basin, 79 percent of which CRC holds in fee.

22 26. CRC holds forty-one Conditional Use Permits (“CUPs”) in Ventura County,  
23 including many permits that which allow for the continued drilling of new wells on the property  
24 without additional modifications. These permits provide CRC with the right to drill new wells as  
25 needed for the continued extraction of the underlying mineral resource.

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<sup>2</sup> *Id.*

1           **C. The County’s Adoption of the GPU**

2           27.       California law requires that each county and city in the state develop and adopt a  
3 general plan. (Gov. Code § 65300.) The general plan consists of a statement of development  
4 policies and includes a diagram or diagrams and text setting forth objectives, principles, standards,  
5 and plan proposals. It is a comprehensive long-term plan for the physical development of the  
6 county or city. In this sense, it is a “blueprint” for development.

7           28.       By statute, the general plan is required to be updated “periodically.” (Gov. Code §  
8 65103, subd. (a).) While there is no requirement for how often to update the general plan, the  
9 planning period has traditionally been 15-20 years.

10          29.       The last time the County had updated its General Plan was in 2005. In 2015, the  
11 County began the process for updating its General Plan.

12          30.       On January 14, 2019, the County of Ventura, Resource Management Agency,  
13 Planning Division prepared and distributed a Notice of Preparation (“NOP”). The purpose of the  
14 NOP was to request that interested persons assist the County by identifying significant  
15 environmental issues, mitigation measures, and the range of reasonable alternatives that should be  
16 addressed in the Environmental Impact Report (“EIR”).

17          31.       Comments were received at a scoping meeting held at the County Government  
18 Center on January 30, 2019, and additional comments were submitted directly to the County. On  
19 or about May 9, 2019, the County published a preliminary draft of the GPU for public review.

20          32.       The GPU is comprised of two primary documents: one containing the goals,  
21 policies, and implementation programs (sometimes referred to as the “Policy Document”), and a  
22 Background Report, which summarizes the County’s existing environmental and regulatory setting  
23 and describes a wide range of topics including demographics, public facilities, and resources. The  
24 Background Report is over 1,000 pages long.

25          33.       There were over 400 new goals, policies, and programs that were added to the  
26 GPU. In addition, more than half of the prior 2005 General Plan goals, policies, and programs  
27 were carried over into the GPU.

1           34.       The GPU contained a set of Oil and Gas Policies that were purportedly included  
2 to “effectively and safely manage the exploration, production, and drilling of oil and gas resources  
3 in Ventura County” (referred to herein as the “Oil and Gas Policies”).<sup>3</sup> These Oil and Gas Policies  
4 include, but are not limited to, the following:

- 5           • **COS-7.2** – The County shall require new discretionary oil wells to be located a  
6           minimum of 1,500 feet from residential dwellings and 2,500 from any school.
- 7           • **COS-7.4** – The County shall require discretionary development for oil and gas  
8           exploration and production to use electrically-powered equipment from 100 percent  
9           renewable sources and cogeneration, where feasible, to reduce air pollution and  
10          greenhouse gas emissions from internal combustion engines and equipment.
- 11          • **COS-7.6** – The County shall evaluate discretionary development to identify any  
12          abandoned oil and gas wells on the project site.
- 13          • **COS-7.7** – The County shall require new discretionary oil wells to use pipelines to  
14          convey oil and produced water; oil and produced water shall not be trucked.
- 15          • **COS-7.8** – The County shall require that gases emitted from all new discretionary oil  
16          and gas wells shall be collected and used or removed for sale or proper disposal.  
17          Flaring or venting shall only be allowed in cases of emergency or for testing purposes.

18           35.       However, as alleged herein, the Oil and Gas Policies would have the effect of  
19 eliminating oil and gas exploration and production in Ventura through the adoption of these unduly  
20 restrictive and unlawful policies.

21           36.       The Draft EIR and GPU were available for public comment period, during which  
22 time 314 public agencies, organizations, and individuals submitted letters and email  
23 correspondence numerous. CRC submitted comments during this period.

24           37.       As noted in submitted comments, several GPU Oil and Gas Policies are infeasible  
25 or regulate areas preempted by federal law. The greenhouse gas emission analysis relies upon

26 <sup>3</sup> The GPU contains a series of policies that are purportedly included to “effectively and safely  
27 manage the exploration, production, and drilling of oil and gas resources in Ventura County”  
(referred to herein as the “Oil and Gas Policies”).

1 several policies that are preempted by state or federal law, violate existing private property rights,  
2 and are simply infeasible. These included several of the Oil and Gas Policies such as Policies  
3 COS-7.2, 7.3, 7.4, and 7.7, and implementation programs L (well stimulation treatment evaluation)  
4 and M (oil and gas operations tax).

5 38. For example, Policies COS-7.7 and 7.8 are preempted, as a local agency cannot  
6 eliminate the use of trucking of oil or limit flaring to County-defined instances of “testing” or  
7 “emergency.” Those activities are governed by state and federal law. Adoption of policies that are  
8 unlawful or that are infeasible results in an erroneous analysis, not based upon substantial  
9 evidence. (See, e.g., *Fed. of Hillside & Canyon Ass’ns v. City of L.A.* (2000) 83 Cal.App.4th 1252,  
10 1261 [mitigation measures must be enforceable].)

11 39. On February 28, 2020, the California Department of Conservation, Geologic  
12 Energy Management Division (“CalGEM”) also submitted comments on the Draft EIR. CalGEM  
13 explained how the agency already regulates many of the areas that the GPU seeks to regulate. For  
14 instance, CalGEM commented that General Plan 6.10 Implementation Program L requires ongoing  
15 County evaluation of potential effects from well stimulation treatment and thermal enhanced  
16 recovery, but that CalGEM already oversees well stimulation treatment and underground injection  
17 control. CalGEM informed the County that “under the Safe Drinking Water Act, the U.S.  
18 Environmental Protection Agency has delegated primacy authority over oil and gas injection wells  
19 to the CalGEM [underground injection control] Program.” Further, Oil and Gas Policy COS-7.8  
20 requires “gases emitted from all new discretionary oil and gas wells shall be collected and used or  
21 removed for sale or proper disposal,” but that Public Resources Code § 3300 already declares that  
22 “unreasonable waste of natural gas” is unlawful. Finally, CalGEM commented that Oil and Gas  
23 Policy COS-7.6 indicates that the County “shall evaluate discretionary development to identify any  
24 abandoned oil and gas wells on the project site,” but that Public Resources Code § 3208.1 already  
25 “establishes well re-abandonment responsibility when a previously plugged and abandoned well  
26 will be impacted by planned property development or construction activities.”

27

1           40.       The Oil and Gas Policies unlawfully conflict with numerous state statutes and  
2 regulations that comprehensively regulate virtually all aspects of oil and gas operations. Oil and  
3 gas operation in California are specifically governed by Division 3 of the Public Resources Code  
4 (Pub. Res. Code §3106, et seq.) and its implementing regulations (14 Cal. Code Regs. § 1712, et  
5 seq.). In addition, CalGEM is explicitly guided by a dual mandate to promote the development of  
6 California’s oil and gas resources and to supervise such operations to prevent damage to life,  
7 health, property, and natural resources. (Pub. Res. Code § 3106). Given California’s all-  
8 encompassing statute and regulatory scheme that governs oil and gas operations, the Oil and Gas  
9 Policies conflict with comprehensive state regulations and are preempted.

10           41.       On July 16, 2020, the County held a public hearing to consider and make  
11 recommendations to the Board of Supervisors regarding adoption and approval of the GPU and  
12 GPU Background Report and certification of the Final EIR. (Planning Division Case Number  
13 PL17-0141). The County ultimately made these recommendations to the Board of Supervisors in  
14 advance of their public hearing scheduled for September 1, 2020.

15           42.       On September 14, CRC submitted a cure and correct letter regarding Brown Act  
16 violations that occurred during the September 1, 2020 hearing. (Gov. Code, § 54950, et seq.)  
17 Among other concerns, members of the Board of Supervisors discussed the General Plan Update  
18 during a break when the public was not present, the public was not provided an adequate agenda,  
19 nor was the public provided the opportunity for full and informed participation.

20           43.       Under the Brown Act, “[a]ll meetings of the legislative body of a local agency  
21 shall be open and public.” (Gov. Code, § 54953.) The purpose of the Brown Act is to ensure that  
22 local government conducts the public’s business openly, so that the public may be well informed.  
23 (*Id.*, § 54950.) Board of Supervisors Chair Kelly Long reiterated this critical element of public  
24 meetings during the meeting stating that: “it is very important that we have transparency and  
25 public input” during the process.

26           44.       Plaintiff is informed and believes, and thereon alleges that, during a break in the  
27 public session, Supervisor Bennett could be heard discussing the content of the General Plan

1 Update, with another Supervisor, due to an issue with his mute button. In response to a Public  
2 Records Act request, the County has also recently produced text messages between Supervisor  
3 Bennett and Supervisor Parks discussing the revision of maps included in the General Plan. The  
4 Brown Act prohibits “serial meetings” in which a series of individual contacts are conducted  
5 between Supervisors. “A majority of the members of a legislative body shall not . . . use a series of  
6 communications of any kind, directly or through intermediaries, to discuss, deliberate, or take  
7 action on any item of business that is within the subject matter jurisdiction of the legislative body.”  
8 (Gov. Code, § 54952.2, subd. (b)(1).)

9 45. The Brown Act also prohibits requiring registration to attend a public meeting. No  
10 in-person participation is available, the agenda notes that the building is closed to the public, and  
11 notes that participants should attend online. However, none of the provided options for submitting  
12 comments are sufficient. The agenda notes that to comment via Zoom, a participant is required to  
13 register. Plaintiff is informed and believes, and thereon alleges that comments made while  
14 watching the livestream are only read at the “discretion of the chair” and thus this is not an  
15 adequate substitute for full and open participation. The agenda does not provide the necessary  
16 clarity required by the Brown Act that registration cannot be required to attend a public meeting.  
17 (Gov. Code, § 54953.3.)

18 46. The Brown Act requires that an agenda be posted at least 72 hours before a  
19 regular meeting and forbids action on any item not on that agenda. The legislative body may not  
20 take any action on an item not appearing on the posted agenda. The purpose of the agenda  
21 requirements is to inform the public of proposed action and to encourage public participation in  
22 government decision making. On September 1, 2020, during its meeting, the Board of Supervisors  
23 acted to combine its consideration of Item 39, a hotly contested and debated General Plan Update  
24 which encompassed a large range of topics, with additional Items 34 and 35. However, Items 34  
25 and 35 proposed further additions to the General Plan Update, which were never heard by the  
26 Planning Commission. Further, the subject matter of Items 34 and 35 was not introduced prior to  
27 the close of public comment on Item 39. The “staff report” to describe these items was held and

1 delivered, not by staff, but by Supervisors Bennett and Parks, after public comment had been  
2 closed on the newly combined items. As a result, the public was deprived of an opportunity to  
3 comment in any meaningful way on Items 34 and 35.

4 47. The Cure and Correct letter issued by CRC is attached hereto as Exhibit D.

5 48. During the September 15, 2020 public hearing, the Board of Supervisors voted to  
6 certify the Final EIR and adopt the GPU. The Board of Supervisors signed the Notice of  
7 Determination on September 15, 2020 and filed it with the Governor's Office of Planning &  
8 Research, State Clearinghouse on September 16, 2020, and with the County Clerk on September  
9 17, 2020.

10 49. The GPU takes effect 30 days after the Board of Supervisors' adoption.  
11 Accordingly, the GPU takes effect on or about October 15, 2020.

12 **D. The GPU's Impact on CRC's Vested Rights**

13 50. The doctrine of vested rights seeks to protect property owners and developers who  
14 have substantially relied on past permits and proceeded accordingly with the government's  
15 acknowledgement. The doctrine protects a permit holder's right not only to construct, but also to  
16 use the premises as authorized by the permit. (*Cnty. of San Diego v. McClurken* (1951) 37 Cal.2d  
17 683, 691.)

18 51. CRC has a fully vested right to continue and to complete the development and  
19 production of its oil and gas resources in the County, consistent with long-established plans,  
20 including CRC's vested rights in County permits issued or assigned to CRC, and CRC's vested  
21 rights to proceed to develop and produce its oil and gas resources in the County in accordance with  
22 these lawfully issued permits issued by the County and following procedures and permits  
23 established by the State of California.

24 52. CRC or its predecessors have drilled wells and installed equipment with the  
25 expectation that additional wells could be drilled under these permits. "The very nature and use of  
26 an extractive business contemplates the continuance of such use of the entire parcel of land as a  
27

1 whole, without limitation or restriction to the immediate area excavated at the time the ordinance  
2 was passed.” (*Hansen Bros. Enters. v. Bd. of Supervisors* (1996) 12 Cal.4th 533, 553.)

3 53. CRC’s vested rights prevent the County from prohibiting activities authorized by  
4 CRC’s permits on the basis of the policies set forth in the GPU. The GPU Oil and Gas Policies rely  
5 upon the pending Zoning Amendments to negate and restrict CRC’s vested rights in its issued  
6 permits.

7 54. CRC’s vested rights may not be abridged absent due process and a finding of  
8 nuisance or payment of adequate compensation. (See *Trans-Oceanic Oil Corp v. Santa Barbara*  
9 (1948) 85 Cal.App.2d 776, 789.)

10 55. The County has not found that *any* of CRC’s oil and gas operations constitute a  
11 nuisance. To the contrary, at all times relevant herein, CRC’s continued operations and drilling  
12 have occurred lawfully, in compliance with its CUPs, and in a manner that does not create harm or  
13 a nuisance to local communities. As these operations are not a nuisance, the County cannot impair  
14 CRC’s vested rights.

15 56. The GPU Oil and Gas Policies ignore CRC’s rights under the diminishing asset  
16 doctrine to use the entire parcel of land for its extractive business. The GPU Oil and Gas Policies  
17 would have the effect not only of shutting down a business that has mutually benefitted the County  
18 for decades, but also of terminating the right to produce oil – an extraordinarily valuable resource  
19 that reduces the need for California to rely on foreign oil resources, which are much more carbon-  
20 intensive. For example, the setback restrictions pursuant to GPU Policy COS-7.2 (Oil Well  
21 Distance Criteria) will exclude large sections of CRC’s existing oilfields from new wells, that  
22 would otherwise be allowed under existing permits.

23 57. The restrictions pursuant to GPU Policies COS-7.7 (Conveyance for Oil and  
24 Produced Water) and COS-7.8 (Gas Collection, Use, and Disposal) will further impact CRC’s  
25 ongoing and future oil operations within the County. Many of CRC’s oil fields require the use of  
26 trucks to transport either produced water or oil, and the use of flaring to dispose of unneeded gas.

27

1 The combination of the new restrictions in the GPU Oil and Gas Policies will make it impossible  
2 to continue production with new wells in many fields currently operated by CRC.

3 58. CRC has clearly exhibited an intent to continue and to complete the development  
4 and production of its oil and gas resources within its oilfields within the County. The continued  
5 development of these resources is a progression of the extractive activity into all areas of CRC's  
6 oil and gas fields as authorized by its permits. The County intends to prohibit CRC's oil and gas  
7 operations by way of the GPU.

8 59. CRC seeks a judicial declaration of the rights and obligations of the respective  
9 parties. Judicial intervention in this dispute, and a declaration by the Court, is necessary to resolve  
10 whether CRC has a vested right to continue and to complete the development and production of its  
11 oil and gas resources within the County. The County's adoption of the GPU Oil and Gas Policies  
12 irreparably harms and will continue to irreparably harm CRC based on the substantial economic  
13 harm and operational harm that will flow from application of the GPU.

14 **E. Inverse Condemnation**

15 60. By purporting to (1) eliminate CRC's vested right to continue and to complete the  
16 development and production of its oil and gas resources within the County and (2) to prevent all  
17 future oil and gas operations in the County, the GPU Oil and Gas policies effect a *per se* taking of  
18 and/or damage to CRC's property, without just compensation, in violation of the Fifth Amendment  
19 to the United States Constitution and Article I, section 19 of the California Constitution.

20 61. The vested rights rule is grounded upon the constitutional principle that a vested  
21 right is a property right which may not be taken without due process of law or just compensation.  
22 (*Urban Renewal Agency v. Cal. Coastal Zone Conservation Comm'n* (1975) 15 Cal.3d 577, 583-  
23 84.) "Under the law of this state the landowner has a property right in oil and gas beneath the  
24 surface, not in the nature of an absolute title to the oil and gas in place, but as an exclusive right to  
25 drill upon his property for these substances." (*Bernstein v. Bush* (1947) 29 Cal.2d 773, 778.) "This  
26 is a right which is 'as much entitled to protection as the property itself, and the undue restriction of  
27

1 the use thereof is as much a taking for constitutional purposes as appropriating or destroying it.”  
2 (*Ibid.*, citation omitted.)

3 62. The setback limitations preclude the use of CRC’s existing operational lands for  
4 future wells and act as a taking of CRC’s vested property interests. In addition, the policy that  
5 precludes trucking of produced oil eliminates the value of future oil reserves in place for those  
6 fields where a pipeline is not economically feasible and is a taking under the federal and state  
7 constitutions. The County’s effort to ban CRC from accessing public streets and highways utilized  
8 by all other businesses to get their products to market will result in millions of dollars in economic  
9 losses. Furthermore, requiring new permits for oil and gas exploration, production, drilling, and  
10 related operations will prevent CRC from utilizing the resources they are currently legally  
11 permitted to pursue.

12 63. In the alternative, application of the GPU Oil and Gas Policies effects a taking of  
13 CRC’s property under the principles of *Penn Central Transportation Co. v. City of New York*  
14 (1978) 438 U.S. 104. (*Id.* at p. 138 n.36.) The adoption of the GPU Oil and Gas Policies  
15 eliminates substantially all economically viable use of CRC’s oil and gas fields within the County  
16 for the benefit of the public without prior compensation to CRC.

17 64. CRC’s interests in its oil and gas fields within the County have substantial value,  
18 which will be substantially lost as a result of the GPU’s Oil and Gas Policies. Even taking into  
19 account the existing production occurring at CRC’s oilfields within the County, GPU’s Oil and  
20 Gas Policies will cause the loss of nearly all of the available oil reserves within certain fields (and  
21 thus their economic value).

22 65. The GPU Oil and Gas Policies will cause a significant interference with CRC’s  
23 distinct, investment-backed expectations in these fields. “[I]f the law effects an unreasonable,  
24 oppressive, or unwarranted interference with an existing use, or a planned use for which a  
25 substantial investment in development costs has been made, the ordinance may be invalid as  
26 applied to that property unless compensation is paid.” (*Hansen Bros. Enters. v. Bd. of Supervisors*,  
27 *supra*, 12 Cal.4th at pp. 551-52.)

1           66.       The County's adoption of the GPU Oil and Gas Policies also substantially impairs  
2 CRC's property rights in its oil fields within the County for the benefit of the public without prior  
3 compensation to CRC. (*Lingle v. Chevron U.S.A. Inc.* (2005) 544 U.S. 528, 540.)

4           67.       The GPU Oil and Gas Policies will force CRC to bear public burdens which, in all  
5 fairness and justice, should be borne by the public as a whole. In taking such action, the County  
6 violated Article I, Section 19 of the California Constitution, which prohibits the temporary or  
7 permanent taking or damaging of private property for public use without prior, just compensation.  
8 Further, the County violated the takings clause of the Fifth Amendment of the U.S. Constitution, as  
9 incorporated by the Fourteenth Amendment, which prohibits the temporary or permanent taking of  
10 private property for public use without prior, just compensation.

11           68.       The County disputes CRC's contention and intends to prohibit CRC's oil and gas  
12 operations by way of the GPU Oil and Gas Policies. A judicial determination of the invalidity of  
13 the GPU's Oil and Gas Policies is necessary and appropriate to avoid the deprivation of state and  
14 federal constitutional rights that will result from applying the Policies to oil and gas production  
15 operations by CRC and the resulting damages.

16           **F. Resulting Damages**

17           69.       CRC is the owner of surface rights and mineral rights in land within the County  
18 that will be subject to the County's GPU Oil and Gas Policies. CRC has fee and leasehold  
19 interests in the extraction of oil within the County. For many years prior to the County's actions in  
20 drafting, reviewing, and adopting the GPU Oil and Gas Policies, CRC had and continues to have a  
21 vested right to continue drilling operations within the County as a matter of right.

22           70.       The adoption of the GPU Oil and Gas Policies eliminates substantially all  
23 economically viable use of CRC's oil and gas fields within the County for the benefit of the public  
24 without prior compensation to CRC. The adoption of the GPU Oil and Gas policies also  
25 substantially impairs the property rights of CRC in its oil and gas fields within the County for the  
26 benefit of the public without prior compensation to CRC. For example, by prohibiting trucking and  
27 flaring and by imposing setbacks that impact its operations, these policies will result in a

1 deprivation of CRC's economically productive use of its mineral interests and vested rights, and  
2 they will thereby result in a taking of CRC's property interests. (See, e.g., *Lucas v. S.C. Coastal*  
3 *Council* (1992) 505 U.S. 1003, 1015-1020.)

4 71. In taking such action, the County violated Article 1, section 19 of the California  
5 Constitution, which prohibits the taking or damaging of private property for public use without  
6 prior, just compensation. Further, the County violated the Takings Clause of the Fifth Amendment  
7 to the U.S. Constitution, as incorporated by the Fourteenth Amendment, which prohibits the taking  
8 of private property for public use without prior, just compensation.

9 72. As a direct result of the County's actions in adopting the GPU Oil and Gas  
10 Policies, these Policies will interfere with the reasonable investment-backed expectations of CRC.  
11 Even if these Policies are subsequently invalidated as against CRC, CRC will suffer damages to its  
12 property rights as a result of the current implementation of the GPU Oil and Gas Policies. To-date,  
13 CRC has not received any compensation from the County on account of the alleged taking of, or  
14 damage to, its property rights.

15 **FIRST CAUSE OF ACTION**

16 **Violations of CEQA – Inadequate EIR**

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

18 73. CRC realleges and incorporates by reference the foregoing paragraphs as though  
19 fully set forth herein.

20 74. CEQA requires the lead agency for a project to prepare an EIR that complies with  
21 the requirements of the statute. The lead agency must also provide for public review and  
22 comment on the project and associated environmental documentation. An EIR must provide an  
23 adequate project description and sufficient environmental analysis such that decision-makers can  
24 intelligently consider environmental consequences when acting on the proposed project.

25 75. Defendants committed a prejudicial abuse of discretion and failed to proceed in a  
26 manner required by law by certifying and relying on an EIR that fails to meet the requirements of  
27 CEQA.

1           **76. Inadequate Project Description.** CEQA requires that an EIR provide an  
2 accurate, stable, and finite project description. An adequate EIR must be prepared with a  
3 sufficient degree of analysis to provide decision-makers with information which enables them to  
4 make a decision which intelligently takes account of environmental consequences.

5           **77.** The EIR fails to provide a legally adequate project description. For example, the  
6 EIR's project description is impermissibly vague; fails to identify where new land use  
7 designations will be applied; fails to identify and describe the policies adopted by the GPU in  
8 adequate levels of detail; fails to describe what each new GPU element will actually accomplish;  
9 fails to identify what buildout of the plan area would be; and excludes any meaningful  
10 description of the implementation measures, actions, and programs necessary to carry out the  
11 GPU.

12           **78. Failure to Properly Describe the Environmental Setting.** An EIR must  
13 describe existing environmental conditions in the vicinity of the proposed project, which is  
14 referred to as "the environmental setting" for the project. This description of existing  
15 environmental conditions normally serves as the "baseline" for measuring the changes to the  
16 environment that will result from the project and for determining whether those environmental  
17 effects are significant.

18           **79.** The EIR's description of the environmental setting and baseline is inadequate and  
19 inaccurate, including its description of existing environmental conditions concerning air quality,  
20 aesthetics, biological resources, greenhouse gas emissions, energy, geologic hazards, hazards and  
21 hazardous materials, land use, mineral resources, and population and housing.

22           **80.** The EIR impermissibly buries description of the existing environmental and  
23 regulatory setting in the 1,000+ page Background Report appendix, in direct contravention of  
24 CEQA's mandate. Information "scattered here and there in EIR appendices," or a report "buried  
25 in an appendix," is not a substitute for a "good faith, reasoned analysis . . ." (*California Oak*  
26 *Foundation v. City of Santa Clarita* (2005) 133 Cal.App.4th 1219, 1239.) Even the Background  
27 Report appended to the Draft EIR fails to adequately describe existing environmental and

1 regulatory conditions.

2 81. Moreover, the EIR's description of the environmental setting cannot be any  
3 longer than necessary to provide an understanding of the significant effects of the project and the  
4 alternatives analyzed in the EIR. (14 Cal. Code Regs. § 15125(a).) The description of the  
5 environmental setting is over 1,000 pages long and far exceeds what is necessary to understand  
6 the project's significant effects.

7 82. **Failure to Adequately Analyze and Disclose the GPU's Significant**  
8 **Environmental Impacts and Support Conclusions Regarding Environmental Impacts with**  
9 **Substantial Evidence.** CEQA requires that an EIR describe the proposed project's significant  
10 environmental effects; each such effect must be revealed and fully analyzed in the EIR. (Pub.  
11 Res. Code §§ 21100(b), 21002.1; 14 Cal. Code Regs. § 15126.2(s).) Significant effect on the  
12 environment refers to substantial, or potentially substantial, adverse changes in physical  
13 conditions. (Pub. Res. Code §§ 21068, 21060.6, 21100(d).) The CEQA Guidelines further  
14 require that in discussing the environmental effects of a project, an EIR should contain "a  
15 sufficient degree of analysis to provide decisionmakers with information which enables them to  
16 make a decision which intelligently takes account of environmental consequences." (14 Cal.  
17 Code Regs. § 15151.) CEQA requires that substantial evidence in the administrative record  
18 support all of the EIR's conclusions.

19 83. Defendants violated CEQA by certifying an EIR that fails to adequately analyze  
20 and disclose the GPU's environmental impacts and fails to support conclusions regarding  
21 environmental impacts with substantial evidence, including but is not limited to:

22 a. **Failure to adequately analyze and disclose air quality impacts, especially**  
23 **impacts associated with implementation of the GPU's Oil and Gas Policies.** In addition, the EIR  
24 fails to analyze or disclose that these policies are preempted by state or federal law, violate existing  
25 private property rights, and are infeasible. The EIR fails to adequately analyze and disclose the  
26 GPU's air quality impacts associated with favoring imported oil over oil produced in Ventura  
27 County, which will deteriorate air quality in the region.

1           b.     Failure to adequately analyze and disclose impacts on **biological resources**,  
2 including impacts related to wildlife nursery sites, habitat conservation plans, and natural  
3 community conservation plans.

4           c.     Failure to adequately analyze and disclose impacts on **energy**, including  
5 failure to qualitatively evaluate whether the GPU will result in inefficient and wasteful energy  
6 consumption, and whether the GPU will conflict with state or local plans.

7           d.     Failure to adequately analyze and disclose the GPU's impacts on  
8 **greenhouse gas emissions**, especially impacts associated with implementation of the GPU's Oil  
9 and Gas Policies. In addition, the EIR fails to analyze or disclose that these policies are preempted  
10 by state or federal law, violate existing private property rights, and are infeasible. The EIR fails to  
11 acknowledge, calculate, and disclose the increased greenhouse gas emissions that would result from  
12 the loss of Ventura County crude development opportunities. The EIR also incorrectly analyzes  
13 and calculates greenhouse gas emissions generated by the oil and gas industry, while failing to  
14 properly analyze and disclose greenhouse emissions from stationary sources in non-oil and gas  
15 industrial sectors, including emissions from paper mills.

16          e.     Failure to adequately analyze and disclose the GPU's **hazards and**  
17 **hazardous materials** impacts. The EIR fails to support with substantial evidence the conclusion  
18 that Policies HAZ-5.2, HAZ 5.5, HAZ-5.8, and HAZ 7.1 and County Implementation Programs K  
19 and L will reduce impacts to less than significant levels. The EIR fails to analyze or disclose the  
20 alleged impact of existing trucking of oil and gas products with regard to hazards or hazardous  
21 materials. Furthermore, the EIR does not analyze or disclose potential impacts associated with  
22 constructing and operating new oil and gas pipelines.

23          f.     Failure to adequately analyze and disclose the GPU's impacts on **hydrology**  
24 **and water quality**, including failure to support its conclusions regarding water quality and  
25 overdraft with substantial evidence. The EIR does not analyze or disclose the foreseeable adverse  
26 consequences associated with large scale construction, installation, and operation of oil and gas  
27 pipelines on hydrology and water quality.

1           g.       Failure to adequately disclose and analyze the GPU's impacts to **mineral**  
2 **resources**, especially impacts associated with implementation of the GPU's Oil and Gas Policies.  
3 In addition, the EIR fails to analyze or disclose that these policies are preempted by state or federal  
4 law, violate existing private property rights, and are infeasible. Substantial evidence does not  
5 support Respondents' conclusion that the GPU's Oil and Gas Policies are justified by a need to  
6 protect the environment or human health, for example on the lack of justification for the setbacks  
7 imposed between the drilling of new wells and residences.

8           h.       Failure to adequately analyze and disclose the GPU's impacts associated  
9 with **noise and vibration**, including failure to support with substantial evidence the conclusion that  
10 oil supply facilities are major industrial sources of noise.

11           i.       Failure to adequately analyze and disclose the GPU's impacts associated  
12 with **population and housing**, including by failing to analyze the housing impacts that will result  
13 from the setback requirements under Policy COS-7.2.

14           j.       Failure to adequately analyze and disclose the GPU's impacts associated  
15 with **transportation and traffic**, including failing to support with substantial evidence the  
16 conclusion that the GPU's policy addressing flaring and trucking associated with new discretionary  
17 oil and gas wells would result in a potential reduction of vehicle miles traveled ("VMT").

18           k.       Failure to adequately analyze and disclose the GPU's secondary impacts  
19 caused by the **economic impact** from implementation of the GPU.

20           l.       Failure to adequately analyze or disclose the GPU's **cumulative impacts**  
21 related to air quality, greenhouse gas emissions, noise, traffic, aesthetics, mineral resources, and  
22 biological impacts among others. The County also failed to analyze or disclose the GPU's  
23 cumulative impacts by **impermissibly piecemealing** its analysis in the EIR. The purpose of the  
24 cumulative impacts analysis is to avoid considering projects in a vacuum, because failure to  
25 consider cumulative harm may risk environmental disaster. Without this analysis, piecemeal  
26 approval of several projects with related impacts will lead to severe environmental harm. The  
27 County has impermissibly piecemealed the GPU from its concurrent Zoning Code text amendments

1 to Article 7, Section 8107-5 of the Non-Coastal Zoning Ordinance, and Article 5, Section 8175-5.7  
2 of the Coastal Zoning Ordinance. Those amendments modify permitting requirements for new oil  
3 and gas exploration and production operations, and the EIR expressly anticipates those amendments  
4 to the Zoning Code. Yet the County has made no effort to include cumulative impacts from the  
5 Zoning Code amendments in the EIR. The County's improper piecemealing has deprived the public  
6 of its right to informed review of the EIR and GPU.

7 **84. Failure to Adopt Feasible Mitigation Measures.** An EIR must propose and  
8 describe mitigation measures to minimize the significant environmental effects identified in the  
9 EIR. The requirement that EIRs identify mitigation measures implements CEQA's policy that  
10 agencies adopt feasible measures when approving a project to reduce or avoid its significant  
11 environmental effects.

12 **85. Defendants failed to adopt feasible mitigation measures to reduce potentially**  
13 **significant environmental effects.** For instance, Respondents lack substantial evidence that the  
14 mitigation measure PR-1, as applied to the setback restrictions in Policy COS-7.2, mitigation  
15 measure PR-2, as applied to Policies COS-7.7, and mitigation measure PR-3, as applied to COS-  
16 7.8, could reduce the protection of human health and the environment.

17 **86. The EIR fails to mitigate significant impacts to mineral resources, greenhouse gas**  
18 **emissions, and air quality, including impacts associated with implementation of the GPU's Oil**  
19 **and Gas Policies.**

20 **87. Adoption of Inadequate and Infeasible Mitigation Measures.** An EIR must  
21 describe feasible mitigation measures that could minimize the project's significant adverse  
22 impacts. Lead agencies must avoid remote, ineffective, and speculative mitigation measures.  
23 Moreover, it is ordinarily inappropriate to defer formulation of a mitigation measure to the  
24 future. Defendants have adopted inadequate and infeasible mitigation measures.

25 **88. The EIR fails to disclose and consider that several mitigation measures are**  
26 **infeasible because they are preempted by federal, state, and/or local law and/or cannot be carried**  
27 **out without unlawfully impairing vested property rights and cannot be enforced.**

1           **89. Failure to Adequately Respond to Comments.** A CEQA lead agency must  
2 evaluate comments on environmental issues received from persons who reviewed and  
3 commented on the EIR during the public comment period, and the CEQA lead agency must  
4 prepare written responses to such comments. The written response must describe the disposition  
5 of significant environmental issues raised. When the CEQA lead agency's position is at variance  
6 with recommendations and objections raised in the comments, the responses to comments must  
7 address such recommendations and objections in detail, and the responses must explain why  
8 specific comments and suggestions were not accepted. Conclusory statements unsupported by  
9 factual information will not suffice.

10           **90.** The public, including CRC, submitted numerous comments to the County  
11 throughout the environmental review process. Yet, the County either ignored these comments or  
12 glossed over their substance with conclusory responses. For example, the County failed to  
13 adequately address the public comments regarding: the insufficiency of the Project Description;  
14 issues of preemption; and the infeasibility of various policies, alternatives, mitigation measures,  
15 and goals.

16           **91. Failure to Recirculate the EIR.** CEQA requires that if significant new  
17 information is added to an EIR after a draft EIR is prepared, but before certification of the final  
18 EIR, an amended EIR must be recirculated for public review and comment.

19           **92.** Defendants failed to recirculate the Draft EIR despite inclusion of significant new  
20 information in the Final EIR. For example, the County included new oil and gas information,  
21 data, calculations, and analyses. The County also included significant new information  
22 regarding the greenhouse gas inventory and forecast.

23           **93.** Recirculation is further required because the EIR omitted key information  
24 necessary to determine what the GPU's potentially significant impacts would be.

25           **94.** Defendants have also failed to revise the EIR to add missing required information,  
26 address legal deficiencies, and correct false and unsupported impact analyses. Accordingly, the  
27 EIR is fundamentally flawed and must be recirculated.



1 effects on the environment.

2 99. Defendants' findings fail to reflect the independent judgment of Defendants.

3 100. As a result of the foregoing defects and others according to proof, Defendants  
4 committed a prejudicial abuse of discretion, failed to proceed in the manner required by law, and  
5 acted without substantial evidentiary support by making determinations or adopting findings that  
6 do not comply with the requirements of CEQA and approving the GPU in reliance thereon.  
7 Accordingly, Defendants' certification of the Final EIR and approval of the GPU must be set  
8 aside.

9 **THIRD CAUSE OF ACTION**

10 **(Brown Act Violations)**

11 **(Govt. Code § 54960.1)**

12 101. CRC realleges and incorporates by reference the foregoing paragraphs as though  
13 fully set forth herein.

14 102. Defendant Ventura Board of Supervisors has a public duty to comply with the  
15 requirements of the Brown Act and failed to comply with that duty when they failed to properly  
16 describe the action to be taken at the September 1, 2020 meeting.

17 103. The Brown Act forbids "serial meetings" in which a series of individual contacts  
18 are conducted between Supervisors; these serial meetings deprive the public of an opportunity to  
19 participate in transparent and open discussions.

20 104. Supervisors engaged in serial meetings in violation of the Brown Act by  
21 discussing agenda items via phone and text while the public session was closed.

22 105. The Brown Act also prohibits requiring registration to attend a public meeting. At  
23 the September 1, 2020 meeting no in-person participation was allowed, participants were  
24 directed to attend online. However, to participate via Zoom, the public was required to register.

25 106. The Brown Act requires that an agenda be posted at least 72 hours before a  
26 regular meeting and forbids action on any item not on that agenda. The legislative body may not  
27 take any action on an item not appearing on the posted agenda. The purpose of the agenda

1 requirements is to inform the public of proposed action and to encourage public participation in  
2 government decision making. On September 1, 2020, during its meeting, the Board of  
3 Supervisors acted to combine its consideration of Item 39 with additional Items 34 and 35. The  
4 subject matter of Items 34 and 35 was not introduced prior to the close of public comment on  
5 Item 39. The “staff report” to describe these items was held and delivered, not by staff, but by  
6 Supervisors Bennett and Parks, after public comment had been closed on the newly combined  
7 items. As a result, the public was deprived of an opportunity to comment in any meaningful way  
8 on Items 34 and 35.

9 107. CRC and the public were prejudiced by the Board’s violations, and they did not  
10 receive a full and informed opportunity to participate and comment on the GPU.

11 108. For these reasons, the Board’s actions at its September 1, 2020 and continued  
12 hearing on September 15, 2020 must be declared null and void.

#### 13 **FOURTH CAUSE OF ACTION**

##### 14 **(Declaratory Relief for Impairment of Vested Rights)**

15 109. CRC realleges and incorporates by reference the foregoing paragraphs as though  
16 fully set forth herein.

17 110. CRC seeks a declaration from this Court that CRC has a vested right in the  
18 continuation of oil and gas production in Ventura County. CRC further seeks a declaration that,  
19 as a result of this vested right, Ventura County may not prohibit the activities authorized by  
20 existing use permits through the GPU.

21 111. The doctrine of vested rights seeks to protect property owners and developers who  
22 have substantially relied on past permits and proceeded accordingly with the government’s  
23 acknowledgement. The doctrine protects a permit holder’s right not only to construct, but also to  
24 use the premises as authorized by the permit. (*Cnty. of San Diego v. McClurken* (1951) 37  
25 Cal.2d 683, 691.)

26 112. CRC has vested rights under the CUPs to the continued development and  
27 production of oil and gas in the fields in which it has interests, consistent with long-established

1 plans and CRC's vested rights in the CUPs. Such vested rights prohibit the County from  
2 prohibiting activities authorized by the CUPs by adopting the GPU.

3 113. CRC's vested rights prevent the County from prohibiting activities authorized by  
4 CRC's CUPs on the basis of the policies set forth in the GPU.

5 114. CRC or its predecessors have drilled wells and installed equipment with the  
6 expectation that additional wells would be drilled under applicable permits. "The very nature  
7 and use of an extractive business contemplates the continuance of such use of the entire parcel of  
8 land as a whole, without limitation or restriction to the immediate area excavated at the time the  
9 ordinance was passed." (*Hansen Bros. Enter., Inc. v. Bd. of Supervisors of Nevada County, et al.*  
10 (1996) 12 Cal.4th 533, 553.)

11 115. CRC has a vested right to continue its operations in its Ventura County oilfields,  
12 which may not be abridged absent due process and a finding of nuisance or payment of adequate  
13 compensation. "The owner of a property right to drill for and extract oil in a proven field  
14 acquired under a permit, may not constitutionally be deprived thereof without payment of just  
15 compensation except upon a showing that its exercise constitutes a nuisance." (*Trans-Oceanic*  
16 *Oil Corp. v. Santa Barbara, supra*, 85 Cal.App.2d at p. 789.) The County has not found that any  
17 of the oil and gas production activities on CRC's properties constitute a nuisance. To the  
18 contrary, at all times relevant herein, the continued operations and drilling at CRC's properties  
19 have occurred lawfully, in compliance with its CUPs, and in a manner that does not create harm  
20 or a nuisance to local communities.

21 116. In the alternative, the "diminishing asset doctrine" applies, which permits oil and  
22 gas operators and others in extractive industries to exhaust the mineral value of their property.  
23 This doctrine was approved by the California Supreme Court in *Hansen Brothers Enterprises,*  
24 *Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533. There are many years of oil and minerals yet  
25 to be extracted from CRC's properties. CRC's reasonable, investment-based expectation was  
26 that its lessees would continue to produce and develop oil and gas until CRC's oil and gas  
27 producing properties were no longer capable of producing oil and gas in commercial quantities.

1 Defendants' actions will have the direct result of substantially diminishing CRC's reasonable  
2 investment-backed expectations.

3 117. The GPU Oil and Gas Policies would have the effect not only of shutting down a  
4 business that has mutually benefitted the County for decades, but also of terminating the right to  
5 produce oil – an extraordinarily valuable resource that reduces the need for California to rely on  
6 foreign oil resources, which are much more carbon-intensive.

7 118. For example, the setback restrictions pursuant to GPU Policy COS-7.2 (Oil Well  
8 Distance Criteria) will exclude large sections of existing oilfields from new wells.

9 119. The restrictions pursuant to GPU Policies COS-7.7 (Conveyance for Oil and  
10 Produced Water) and 7.8 (Gas Collection, Use, and Disposal) will further impact CRC's ongoing  
11 and future oil operations within the County. Many of CRC's oil fields require the use of trucks  
12 to transport either produced water or oil, and the use of flaring to dispose of unneeded gas.

13 120. The combination of the new restrictions in the GPU Oil and Gas Policies will  
14 make it impossible to continue production in many fields currently operated by CRC.

15 121. CRC has clearly exhibited an intent to continue and to complete the development  
16 and production of its oil and gas resources within the County. The continued development of  
17 these resources is a progression of the extractive activity into all areas of CRC's oil and gas  
18 fields as authorized by its permits.

19 122. The County disputes CRC's contention and intends to prohibit CRC's oil and gas  
20 operations by way of the GPU.

21 123. CRC seeks a judicial declaration of the rights and obligations of the respective  
22 parties.

23 124. Judicial intervention in this dispute, and a declaration by the Court, is necessary to  
24 resolve whether CRC has a vested right to continue and to complete the development and  
25 production of its oil and gas resources within the County.

26 125. The County's adoption of the GPU Oil and Gas Policies irreparably harms and  
27 will continue to irreparably harm CRC based on the substantial economic harm and operational

1 harm that will flow from application of the GPU.

2 **FIFTH CAUSE OF ACTION**

3 **(Declaratory Relief Based Upon Violation of Article 1, §19 of the California Constitution**  
4 **and Violation of the Takings Clause of the Fifth and Fourteenth Amendments**  
5 **[Inverse Condemnation])**

6 126. CRC realleges and incorporates by reference the foregoing paragraphs as though  
7 fully set forth herein.

8 127. The GPU Oil and Gas Policies are invalid because they substantially impair  
9 CRC's property rights in their oilfields within the County without prior compensation to CRC.  
10 The County therefore violated Article 1, section 19 of the California Constitution and the  
11 Takings Clause of the Fifth and Fourteenth Amendments to the United States Constitution by  
12 adopting the GPU.

13 128. The County's adoption of the GPU Oil and Gas Policies is part of a concerted  
14 effort to stop oil and gas production in the County, directly attacking ongoing business interests.

15 129. The County's adoption of the GPU Oil and Gas Policies also substantially impairs  
16 CRC's property rights in its oil fields within the County for the benefit of the public without  
17 prior compensation to CRC.

18 130. The GPU Oil and Gas Policies will force CRC to bear public burdens which, in all  
19 fairness and justice, should be borne by the public as a whole.

20 131. In taking such action, the County violated Article 1, section 19 of the California  
21 Constitution, which prohibits the temporary or permanent taking or damaging of private property  
22 for public use without prior, just compensation. Further, the County violated the takings clause  
23 of the Fifth Amendment of the U.S. Constitution, as incorporated by the Fourteenth Amendment,  
24 which prohibits the temporary or permanent taking of private property for public use without  
25 prior, just compensation.

26 132. The County disputes CRC's contention and intends to prohibit CRC's oil and gas  
27 operations by way of the GPU Oil and Gas Policies.





1 safely manage the exploration, production, and drilling of oil and gas resources in Ventura  
2 County,” the Policies actually have the effect of imposing requirements and restrictions that  
3 indirectly prohibit oil and gas operations in the County, rather than “safely manage” those  
4 operations.

5 147. There is no legitimate interest in prohibiting oil and gas operations in the County.

6 148. There is no legitimate interest in eliminating an industry that is already regulated  
7 and permitted by various government entities.

8 149. The GPU Oil and Gas Policies also interfere with CRC’s vested rights to continue  
9 and to complete the development and production of its oil and gas resources in the County.  
10 There are substantive due process requirements that vested rights cannot be terminated or  
11 impaired by ordinary police power regulations, and can be revoked or impaired only to serve a  
12 “compelling state interest,” such as harm, danger or menace to public health and safety or public  
13 nuisance, and that the government’s interference with the vested right be narrowly tailored to  
14 address the compelling interest and its magnitude. The County has not identified any compelling  
15 state interest to justify terminating or impairing CRC’s vested rights. Nor is there any.

16 150. Moreover, the GPU Oil and Gas Policies impose impermissible and arbitrary  
17 restrictions on oil and gas operators like CRC that are not imposed on similarly situated persons  
18 or businesses, including use of public roads. This is precisely the type of unequal treatment that  
19 has been found to be in violation of the Constitution’s equal protection clause.

20 151. A bona fide and actual controversy exists between CRC and the County in that  
21 CRC alleges, and the County denies, that the adoption of the GPU Policies violated Article 1,  
22 section 7 of the California Constitution and the Due Process Clause of the Fourteenth  
23 Amendment to the United States Constitution.

24 152. CRC desires a judicial determination of the validity of the GPU Oil and Gas  
25 Policies to save itself from the harm caused by the adoption of these Policies, which prohibit  
26 and/or impair CRC’s oil and gas operations within the County. The adoption of the GPU Oil and  
27 Gas policies results in substantial hardship to CRC.

1 EIGHTH CAUSE OF ACTION

2 **(Petition for Writ of Traditional Mandamus Under Code of Civil Procedure Section 1085 or**  
3 **Alternatively under Section 1094.5)**

4 153. CRC realleges and incorporates by reference the foregoing paragraphs as though  
5 fully set forth herein.

6 154. CRC seeks a writ a traditional mandamus pursuant to Code of Civil Procedure  
7 Section 1085, or alternatively Section 1094.5. The adoption of the GPU is preempted because  
8 the County is preempted from intruding upon the state’s exclusive jurisdiction over certain parts  
9 of oil and gas regulations.

10 155. California has adopted numerous statutes and regulations that comprehensively  
11 regulate virtually all aspects of oil and gas operations. Oil and gas operations are specifically  
12 governed by Division 3 of the Public Resources Code (Pub. Res. Code § 3000, *et seq.*) and its  
13 implementing regulations (14 Cal. Code Regs. § 1712, *et seq.*) By and through this all-  
14 encompassing statutory and regulatory scheme, the State of California, through CalGEM, has  
15 exclusive jurisdiction over the field of oil and gas operations, methods, and procedures to the  
16 exclusion of local legislation.

17 156. The GPU impermissibly attempts to indirectly prohibit or impair oil and gas  
18 subsurface operations by imposing restrictive regulations. This includes, but is not limited to,  
19 the GPU Oil and Gas Policies and General Plan 6.10 Implementation Program L (“Program L”).

20 157. The Attorney General has concluded that a conflict arises whenever local  
21 government attempts to “exercise control over subsurface activities,” whether “directly or  
22 indirectly.” (59 Ops.Cal.Atty. Gen 461, 478; *Desert Turf Club v. Bd. of Supervisors* (1956) 141  
23 Cal.App.2d 446, 452.)

24 158. The GPU Oil and Gas Policies and Program L are preempted by federal and state  
25 law, providing that CalGEM has exclusive jurisdiction to regulate the drilling, operation,  
26 maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities.  
27 CalGEM further has exclusive jurisdiction to regulate the use of pipelines and the flaring of gas.

1 The GPU Policies and Program L attempt to indirectly prohibit or impair subsurface operations  
2 by imposing restrictive regulations, in direct contravention of applicable law.

3 159. Program L requires ongoing County evaluation of potential effects from well  
4 stimulation treatment and thermal enhanced oil recovery. Program L is preempted by federal  
5 and state law, providing that CalGEM has exclusive jurisdiction to regulate well stimulation  
6 treatment and underground injection control. Under the federal Safe Drinking Water Act, the  
7 U.S. Environmental Protection Agency has delegated primacy authority over oil and gas  
8 injection wells to the CalGEM Underground Injection Control Program.

9 160. GPU Policy COS-7.2 requires setbacks from well heads to address air toxics  
10 produced at the well head. This Policy is preempted, including by AB 2588, which requires a  
11 facility-specific evaluation of air toxic risk posed to nearby residents and businesses. AB 2588  
12 ensures appropriate distances and control measures to minimize air toxic risks to nearby  
13 residents and businesses.

14 161. GPU Policy COS-7.4 attempts to require evaluations of well stimulation treatment  
15 and enhanced oil recovery projects for seismic, groundwater, greenhouse gas emission, and other  
16 impacts. This Policy is preempted, including by Senate Bill 4, codified in Pub. Res. Code. §  
17 3150, et seq. Senate Bill 4 explicitly directs CalGEM to promulgate extensive regulations  
18 governing well stimulation treatments in California.

19 162. GPU Policy COS-7.5 requires restoration for oil and gas sites. GPU Policy COS-  
20 7.5 is preempted, including by 14 Cal. Code Regs. § 1776, which requires well sites to be  
21 returned to as near a natural state as practicable within 60-days of plugging and abandonment of  
22 any oil and gas well. Section 1776 also requires oilfield lease restoration to include the removal  
23 of all tanks, above-ground pipelines, debris, and other facilities equipment.

24 163. GPU Policy COS-7.6 indicates that the County “shall evaluate discretionary  
25 development to identify any abandoned oil and gas wells on the project site.” This Policy is  
26 preempted, including by Public Resources Code section 3208.1, which establishes well re-  
27 abandonment responsibility when a previously plugged and abandoned well will be impacted by

1 planned property development or construction activities. Section 3208.1 gives CalGEM the  
2 authority to order or permit the re-abandonment of any well where it has reason to question the  
3 integrity of the previous abandonment, or if the well is not accessible or visible.

4 164. GPU Policy COS-7.8 attempts to restrict flaring of natural gas on new wells  
5 except for emergencies and testing. Policy COS-7.8 is preempted, including by state law that  
6 expressly provides for flaring of natural gas (Pub. Res. Code §§ 3300, 3500-3503; 17 Cal. Code  
7 Regs. §§ 95665-95677) as does the Ventura County Air Pollution Control District (“VCAPCD”),  
8 such as during emergencies, testing power outages, and maintenance of wells, facilities, and  
9 pipelines. This Policy is also preempted by 40 C.F.R. Part 60, Subpart A General Provisions,  
10 which regulates flares, including those at oil and gas facilities. Policy COS-7.8 is further  
11 preempted by state regulations that cover measurement and reporting of flare emissions. (See,  
12 e.g., 40 CFR Part 98 Mandatory Greenhouse Gas Reporting; 17 Cal. Code Regs., Mandatory  
13 Greenhouse Gas Reporting).

14 165. By adopting the GPU, the County has acted unlawfully and beyond the scope of  
15 its statutory and regulatory authority as set forth in California and federal law.

16 166. In adopting the GPU, the Planning Commission and Board of Supervisors also  
17 failed to comply with its legal obligations under the Government Code. The Planning  
18 Commission failed to conduct an independent review and recommendation of the General Plan,  
19 as required by Government Code section 65354. The Board of Supervisors substantially  
20 modified the General Plan by adding and modifying policies and mitigation measures that were  
21 not previously considered by the Planning Commission, in violation of Government Code  
22 section 65356.

23 167. The County has acted arbitrarily and capriciously and has abused its discretion.

24 168. CRC has a beneficial interest in ensuring that the County does not enforce the  
25 GPU Policies that exceed its authority and are preempted by state and federal statutes. CRC  
26 owns or has operating interests in mineral rights for thousands of acres in the County and has an  
27 interest in ensuring its right to continue production of oil and gas from its properties, which are

1 impacted by the preempted Oil and Gas Policies.

2 169. CRC is irreparably harmed by the County's adoption of the GPU.

3 170. CRC has no plain, speedy and adequate remedy at law to challenge the GPU other  
4 than the relief sought herein. Without the resolution of these challenges, CRC will be  
5 permanently and irreparably harmed by implementation of the GPU.

6 171. Because the adoption of the GPU is quasi-legislative in nature and not  
7 adjudicatory, CRC brings this action under Code of Civil Procedure section 1085. In the  
8 alternative, however, CRC also seeks a writ of mandamus under Code of Civil Procedure section  
9 1094.5 to the extent, if any, that the Court concludes section 1094.5 is applicable here.

10 **NINTH CAUSE OF ACTION**

11 **(Declaratory Relief – Preemption)**

12 172. CRC realleges and incorporates by reference the foregoing paragraphs as though  
13 fully set forth herein.

14 173. Pursuant to federal and state law, the power and authority to regulate oil and gas  
15 operations, methods, and procedures in California lies exclusively in the State of California,  
16 including with CalGEM. The provisions of the GPU Oil and Gas Policies and Program L  
17 purport to regulate, restrict, prohibit, and/or impair subsurface operations in the County, and are  
18 in direct conflict with superior California law, including, without limitation, the sections of the  
19 California Public Resources Code relating to oil and gas production, Senate Bill 4, CalGEM  
20 regulations, and permits lawfully issued by CalGEM.

21 174. Defendants lack the power, authority, and jurisdiction to indirectly prohibit or  
22 impair subsurface operations by imposing restrictive policies, as that power is exclusively a  
23 function of the State of California. Moreover, the laws of the State of California preempt and  
24 fully occupy regulation of the fields of drilling of oil and gas wells, well stimulation treatment,  
25 underground injection control, enhanced oil recovery, well abandonment and re-abandonment,  
26 flaring, and restoration of oil and gas sites. The provisions of the GPU Oil and Gas Policies and  
27 Program L purporting to regulate, restrict, prohibit, and/or impair subsurface operations are

1 preempted, in whole or in part, by federal and state law, and, as such, are invalid and without  
2 effect.

3 175. The Planning Commission and Board of Supervisors failed to comply with their  
4 legal obligations under the Government Code. The Planning Commission failed to conduct an  
5 independent review and recommendation of the General Plan, as required by Government Code  
6 section 65354. The Board of Supervisors substantially modified the General Plan by adding  
7 policies that were not previously considered by the Planning Commission, in violation of  
8 Government Code section 65356.

9 176. CRC is informed and believes, and thereon alleges, that Defendants dispute the  
10 contentions set forth above.

11 Judicial intervention in these disputes, and a declaration by the Court, is necessary to  
12 resolve whether the adoption of the GPU is invalid under the Government Code and whether its  
13 Oil and Gas Policies are preempted, in whole or in part, by federal and state law.

14 **JURY TRIAL DEMAND**

15 CRC requests a jury trial as to all causes of action for which one is permitted.

16 **PRAYER FOR RELIEF**

17 Wherefore, plaintiff prays for judgment as follows:

- 18 1. For alternative and peremptory writs of mandamus, commanding the County:
- 19 a. To vacate and set aside approval of the GPU;
- 20 b. To vacate and set aside certification of the Final EIR for the GPU;
- 21 c. To prepare and certify a legally adequate EIR for the GPU;
- 22 d. To suspend any and all activity pursuant to the County's approval of the GPU
- 23 that could result in an adverse change or alteration to the physical environment
- 24 until the County has complied with all requirements of CEQA and all other
- 25 applicable state and local laws, policies, ordinances, and regulations as are
- 26 directed by this Court pursuant to Public Resources Code section 21168.9;
- 27

1           2.     For interlocutory and permanent injunctive relief enjoining Defendants, and each of  
2 them, from engaging in any activity pursuant to the GPU until the GPU complies with CEQA and  
3 all other applicable state and local laws, policies, ordinances, and regulations;

4           3.     For interlocutory and permanent injunctive relief commanding that the City comply  
5 with all Brown Act requirements in the future in all activities and all respects;

6           4.     For a declaration that the Ventura County Board of Supervisors violated CEQA in  
7 approving the GPU;

8           5.     For a declaration that the Ventura County Board of Supervisors violated CEQA in  
9 approving the GPU

10          6.     For a declaration that the GPU's policies are preempted, in whole or in part, by  
11 federal and state law, and are invalid and without effect

12          7.     For a declaration that the Ventura County Planning Commission and Board of  
13 Supervisors acted in violation of its obligations under the Government Code in approving the GPU;

14          8.     For a declaration that Defendants' Policies violate CRC's vested rights;

15          9.     For a declaration that Defendants' Policies violate CRC's due process rights;

16          10.    For a declaration that Defendants' Policies violate provisions of the California  
17 Constitution and the United States Constitution

18          11.    For just compensation, according to proof, for permanent taking of property;

19          12.    For just compensation, according to proof, for temporary taking of property;

20          13.    For an award of damages against Defendants according to proof;

21          14.    For reasonable attorneys' fees incurred in this matter pursuant to Sections 1021.5  
22 or 1036 of the California Code of Civil Procedure and other pertinent law;

23        ///

24        ///

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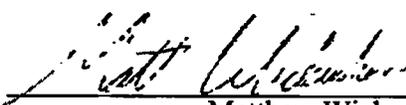
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- 15. For Plaintiff's costs of suit incurred herein; and
- 16. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: October 15, 2020

ALSTON & BIRD LLP  
JEFFREY DINTZER  
MATTHEW WICKERSHAM  
GREGORY BERLIN  
GINA ANGIOLILLO

By:   
Matthew Wickersham

Attorneys for Petitioner and Plaintiff  
CALIFORNIA RESOURCES CORPORATION

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**VERIFICATION**

I, D. Adam Smith, am Vice-President of California Resources Corporation, a petitioner in this proceeding and am authorized to make this verification on its behalf. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDAMUS AND COMPLAINT FOR DAMAGES AND DECLARATORY RELIEF and know the contents thereof. The contents are true of my own knowledge, except as to matters stated therein on information and belief, and as to those matters I believe them to be true.

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

Executed on October 14, 2020.

*Adam Smith*

---

D. Adam Smith



# **EXHIBIT A**

# ALSTON & BIRD

333 South Hope Street, 16th Floor  
Los Angeles, CA 90071-1410  
213-576-1000 | Fax: 213-576-1100

Jeffrey D. Dintzer

Direct Dial: 213-576-1063

Email: [jeffrey.dintzer@alston.com](mailto:jeffrey.dintzer@alston.com)

**VIA CERTIFIED U.S. MAIL and E-MAIL**

October 13, 2020

Ventura County and Ventura County Board of Supervisors  
Attn: Mark A. Lunn, Ventura County Clerk-Recorder  
Ventura County Government Center  
Hall of Administration Building, Main Plaza  
800 South Victoria Avenue  
Ventura, CA 93009-1260  
[clerk.recorder@ventura.org](mailto:clerk.recorder@ventura.org)

Ventura County and Ventura County Board of Supervisors  
Attn: Rosa Gonzalez, Chief Deputy Clerk of the Board  
Ventura County Government Center  
Hall of Administration Building, Fourth Floor  
800 S. Victoria Ave.  
Ventura, CA 93009-1940  
[clerkoftheboard@ventura.org](mailto:clerkoftheboard@ventura.org)

Re: Notice of Intent to Commence Action Against Ventura County and the Ventura County Board of Supervisors

Dear Ms. Gonzalez and Mr. Lunn:

PLEASE TAKE NOTICE, under Public Resources Code § 21167.5, that Petitioner and Plaintiff, California Resources Corporation, will file a Petition for Writ of Mandate and Complaint against Defendants and Respondents, County of Ventura and Ventura County Board of Supervisors, for failure to observe the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000, *et seq.*, and the CEQA Guidelines, California Code of Regulations § 15000, *et seq.*, in the administrative process that culminated in the County's September 15, 2020 decision to adopt the Ventura County 2040 General Plan Update ("GPU") and to certify the Environmental Impact Report for the GPU.

Alston & Bird LLP

[www.alston.com](http://www.alston.com)

Atlanta | Beijing | Brussels | Charlotte | Dallas | Fort Worth | London | Los Angeles | New York | Raleigh | San Francisco | Silicon Valley | Washington, D.C.

The relief that Petitioner intends to seek with the Petition for Writ of Mandate and Complaint includes, but is not limited to, the following:

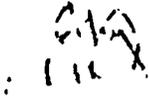
- **Alternative and peremptory writs of mandate, commanding Respondents:**
  - To vacate and set aside approval of the GPU;
  - To vacate and set aside certification of the Final EIR for the GPU;
  - To prepare and certify a legally adequate EIR for the GPU; and
  - To suspend any and all activity pursuant to Respondents' approval of the GPU that could result in an adverse change or alteration to the physical environment until the County has complied with all requirements of CEQA and all other applicable state and local laws, policies, ordinances, and regulations as are directed by this Court pursuant to Public Resources Code section 21168.9.
- A mandatory injunction commanding that the City comply with all Brown Act requirements in the future in all activities and all respects.
- For a writ of mandate compelling the County to refrain from implementing and/or enforcing the GPU to restrict or to halt CRC's exercise of its vested right to continue and to complete the development and production of its oil and gas resources in the County.
- For a declaration that Defendants' Policies violate CRC's vested rights.
- For a declaration that Defendants' Policies violate CRC's due process rights.
- For a declaration that Defendants' Policies violate provisions of the California Constitution and the United States Constitution.
- For just compensation, according to proof, for permanent taking of property.
- For just compensation, according to proof, for temporary taking of property.
- For an award of damages against Defendants according to proof.
- For a preliminary and permanent injunction requiring Defendants to rescind application of Defendants' Policies against Plaintiff and to process the pending applications and future applications for well stimulation treatments, high-pressure cyclic steaming, and underground injection and issue permits accordingly.
- For reasonable attorneys' fees incurred in this matter pursuant to Sections 1021.5 or 1036 of the California Code of Civil Procedure and other pertinent law.

Notice of Intent to Commence Action Against Ventura County and the Ventura County Board of Supervisors  
October 13, 2020  
Page 3

- For Plaintiff's costs of suit.

If you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Dintzer", is positioned above the printed name.

Jeffrey D. Dintzer

Notice of Intent to Commence Action Against Ventura County and the Ventura County Board of Supervisors

October 13, 2020

Page 4

**PROOF OF SERVICE**

I, Claudia Jimenez, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Alston & Bird LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, California, 90071.

On October 13, 2020, I served the document(s) described as **NOTICE OF INTENT TO COMMENCE ACTION AGAINST VENTURA COUNTY AND VENTURA COUNTY BOARD OF SUPERVISORS** on the following parties, as shown below:

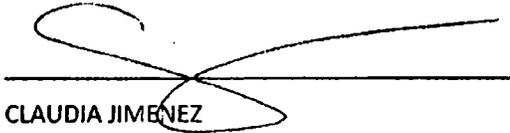
Ventura County and Ventura County Board of Supervisors  
Attn: Mark A. Lunn, Ventura County Clerk-Recorder  
Ventura County Government Center  
Hall of Administration Building, Main Plaza  
800 South Victoria Avenue  
Ventura, CA 93009-1260

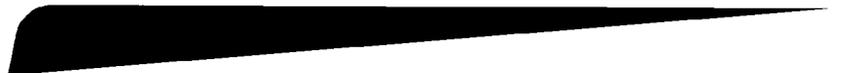
Ventura County and Ventura County Board of Supervisors  
Attn: Rosa Gonzalez, Chief Deputy Clerk of the Board  
Ventura County Government Center  
Hall of Administration Building, Fourth Floor  
800 S. Victoria Ave.  
Ventura, CA 93009-1940

BY CERTIFIED MAIL/RETURN RECEIPT REQUESTED: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, Los Angeles, California, 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing **Via Certified Mail, Return Receipt Requested** with the United States Postal Service such envelope at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California, 90071.

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

Executed on October 13, 2020, at Los Angeles, California.

  
CLAUDIA JIMENEZ



# **EXHIBIT B**

1 JEFFREY D. DINTZER (State Bar No. 139056)  
MATTHEW C. WICKERSHAM (State Bar No. 241733)  
2 GREGORY S. BERLIN (State Bar No. 316289)  
GINA M. ANGIOLILLO (State Bar No. 323454)  
3 ALSTON & BIRD LLP  
333 South Hope Street, 16th Floor  
4 Los Angeles, CA 90071-1410  
Telephone: 213-576-1000  
5 Facsimile: 213-576-1100  
E-mail: jeffrey.dintzer@alston.com  
6 matt.wickersham@alston.com

7 Attorneys for Petitioner and Plaintiff CALIFORNIA  
RESOURCES CORPORATION

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF VENTURA**

10 CALIFORNIA RESOURCES CORPORATION, a  
11 Delaware corporation

12 Petitioner and Plaintiff,

13 v.

14 COUNTY OF VENTURA, a political subdivision  
of the State of California; VENTURA COUNTY  
15 BOARD OF SUPERVISORS; and DOES 1 through  
20, inclusive,

16 Respondents and Defendants.  
17

Case No. \_\_\_\_\_

**CEQA CASE**

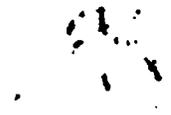
**NOTICE OF ELECTION TO  
PREPARE ADMINISTRATIVE  
RECORD**

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Pursuant to Public Resources Code § 21167.6(b)(2), Petitioner and Plaintiff, California Resources Corporation, elects to prepare the administrative record of proceedings in the above-captioned proceeding.

Dated: October 15, 2020

JEFFREY D. DINTZER  
MATTHEW C. WICKERSHAM  
GREGORY S. BERLIN  
GINA M. ANGIOLILLO  
ALSTON & BIRD LLP

By: 

---

Jeffrey D. Dintzer

Attorneys for Petitioner and Plaintiff CALIFORNIA  
RESOURCES CORPORATION



# **EXHIBIT C**

# ALSTON & BIRD

333 South Hope Street, 16th Floor  
Los Angeles, CA 90071-1410  
213-576-1000 | Fax: 213-576-1100

Jeffrey D. Dintzer

Direct Dial: 213-576-1063

Email: [jeffrey.dintzer@alston.com](mailto:jeffrey.dintzer@alston.com)

**VIA CERTIFIED U.S. MAIL**

October 15, 2020

Attorney General Xavier Becerra  
Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814-2919

Re: Notice to Attorney General

Dear Attorney General Becerra:

PLEASE TAKE NOTICE, under Public Resources Code § 21167.7 and Code of Civil Procedure § 388, that on October 15, 2020, California Resources Corporation, filed a verified petition for writ of mandate and complaint against the County of Ventura and Ventura County Board of Supervisors in Ventura County Superior Court.

A copy of the petition and complaint is attached to this notice.

Sincerely,



Jeffrey D. Dintzer

**PROOF OF SERVICE**

I, Claudia Jimenez, declare:

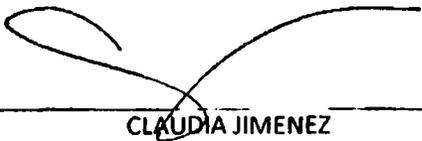
I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Alston & Bird LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, California, 90071.

On October 15, 2020, I served the document(s) described **NOTICE TO ATTORNEY GENERAL** on the interested parties in this action by enclosing the document(s) in a sealed envelope addressed as follows:

Attorney General Xavier Becerra  
Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814-2919

- BY CERTIFIED MAIL/RETURN RECEIPT REQUESTED: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, Los Angeles, California, 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing *Via Certified Mail, Return Receipt Requested* with the United States Postal Service such envelope at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California, 90071.
- I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 15, 2020, at Los Angeles, California.

  
\_\_\_\_\_  
CLAUDIA JIMENEZ



# **EXHIBIT D**

# ALSTON & BIRD

333 South Hope Street, 16th Floor  
Los Angeles, CA 90071-1410  
213-576-1000 | Fax: 213-576-1100

Matthew C. Wickersham

Direct Dial: 213-576-1185

Email: [matt.wickersham@alston.com](mailto:matt.wickersham@alston.com)

September 14, 2020

Chair Kelly Long and Members of the Ventura County Board of Supervisors  
Hall of Administration  
800 South Victoria Avenue  
Ventura, California 93009

RE: September 15, 2020 Agenda Item No. 41, as continued from September 1, 2020  
Agenda Item Nos. 34, 35 & 39, and Agenda Items Nos. 35 and 42

Honorable Members of the Board:

The earlier procedural and substantive defects that have marked the General Plan Update and Final EIR process were compounded at and following the September 1, 2020 Ventura County Board of Supervisors (“BOS”) meeting. On behalf of California Resources Corporation, we submit this letter to demand that the BOS cure or correct the serious Brown Act violations from Items 34, 35 and 39 that undermined the validity of the September 1, 2020 meeting. In addition to the Brown Act violations, the public process in this matter continues to be severely compromised. We highlight the newest defects below.

**1. The Board of Supervisors Violated the Brown Act.**

The requirements of the Brown Act apply to the Board of Supervisors meeting held on September 1, 2020. (Gov. Code, § 54952.) The Brown Act requires an agenda to be available at least 72 hours prior to a meeting. This agenda must include a brief general description of *each* item of business. (Gov. Code, § 54954.2.) The public must have the opportunity to understand and comment upon the items up for deliberation in order to effectively discuss those items with the Board. (Gov. Code, § 54954.3.)

As is clear from the 967 comments on a wide range of issues that were submitted in association with Item 39, and the number of individuals that were unavailable for comment due either to technical difficulties or to the significant delay, the citizens of Ventura County were not given adequate opportunity to comment. The many aspects of the General Plan Update and the Final EIR will greatly impact the citizens of Ventura. Any attempt to diminish the public’s ability to effectively participate in the discussion on this issue cannot be tolerated.

**A. The Board of Supervisors May Not Engage in Non-Public Deliberations regarding the Adoption of the General Plan Update.**

Under the Brown Act, “[a]ll meetings of the legislative body of a local agency shall be open and public.” (Gov. Code, § 54953.) The purpose of the Brown Act is to ensure that local government conducts the public’s business openly, so that the public may be well informed. (*Id.*, § 54950.) Board of Supervisors Chair Kelly Long reiterated this critical element of public meetings during the meeting stating that: “it is very important that we have transparency and public input” during the process.

However, during a break in the public session, Supervisor Bennett could clearly be heard discussing the content of the General Plan Update. Supervisor Bennett is heard saying: “Hey John, real quick while we’re on this break...uh, yeah... if that’s the case we have to go back to the planning ... so this proposal of 2,500 up from 1,500 ...” before the audio feed was interrupted. The private conversation followed a proposal under agenda Item 39 to increase the currently proposed oil and gas set back of 1,500 feet to 2,500 feet, raised during public comments.

This discussion, apparently conducted between Supervisor Bennett and Supervisor Zaragoza, was clearly intended to be kept from the public, as Supervisor Bennett noted just after the public session resumed that he had just been told his mute button was not working and proceeded to test it. This private conversation is a concerning sign that non-public deliberations were occurring behind closed doors, and raises unacceptable risks regarding compliance with the Brown Act.

In response to a Public Records Act request, the County has also recently produced text messages between Supervisor Bennett and Supervisor Parks discussing the revision of maps included in the General Plan. (See Attachment.) Thus, it appears that a majority of the Supervisors have been having private discussions concerning Item 39 during the time that it was directly before the Board for deliberation.

The Brown Act prohibits “serial meetings” in which a series of individual contacts are conducted between Supervisors. “A majority of the members of a legislative body shall not . . . use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.” (Gov. Code, § 54952.2(b)(1).) Individual conversations cannot be used to accomplish in stages what would be prohibited in one step. These serial meetings deprive the public of an opportunity to participate in transparent and open discussions; they result in the kind of secret deliberations that the Brown Act is designed to prevent.

**B. The Public Was Improperly Required to Register for the Meeting.**

The Brown Act also prohibits requiring registration to attend a public meeting. No in-person participation is available, the agenda notes that the building is closed to the

public, and notes that participants should attend online. However, none of the provided options for submitting comments are sufficient. The agenda notes that to comment via Zoom, a participant is required to register. Comments made while watching the livestream are only read at the “discretion of the chair” and thus this is not an adequate substitute for full and open participation. The agenda does not provide the necessary clarity required by the Brown Act that registration cannot be required to attend a public meeting.

A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(Gov. Code, § 54953.3.) The Board of Supervisors did not adequately comply with this requirement to allow public participation in the current pandemic.

**2. The Addition of Agenda Items 34 and 35, and Combining Them with Item 39, Precluded Planning Commission and Informed Public Comment.**

On September 1, 2020, during its meeting, the Board of Supervisors acted to combine its consideration of Item 39, a hotly contested and debated General Plan Update which encompassed a large range of topics, with additional Items 34 and 35. However, Items 34 and 35 proposed further additions to the General Plan Update, which were never heard by the Planning Commission. The Planning Commission has a statutory obligation to make an independent review of the proposed general plan in making a written recommendation to the Board of Supervisors. Section 65354 of the Government Code provides that “[t]he planning commission shall make a written recommendation on the adoption or amendment of a general plan.” (Govt. Code § 65354; see also Govt. Code § 65103.) These items, introduced at the September 1, 2020 meeting, alter the General Plan but have not been reviewed by the Planning Commission.

Further, the subject matter of Items 34 and 35 was not introduced prior to the close of public comment on Item 39. The “staff report” to describe these items was held and delivered, not by staff, but by Supervisors Bennett and Parks, after public comment had been closed on the newly combined items. As a result, the public was deprived of an opportunity to comment in any meaningful way on Items 34 and 35. The public didn’t know the County or Board’s intention regarding these two added items.

**3. The Creation of the Climate Emergency Council Occurred without Public Input.**

Throughout the General Plan Update process, mitigation measure GHG-4 has called for the creation of a Climate Emergency Council (“CEC”), which will have significant input into the County’s work toward meeting its Climate Action Plan goals and obligations. However, without notice to the participating public, after the close of public comment on September 1, 2020, this measure was surprisingly and materially rewritten by the BOS during the hearing. It was not rewritten in general terms as would be common to a broad policy document like a General Plan Update, but with the specifics of membership that would be typical of an implementing resolution following weeks or months of staff consideration. Because this wholesale change took place after the close of the public comment period, the public was again deprived of any input. The Board is now seeking to extend its denial of process on this item, which is slated for separate consideration on September 15, 2020 as agenda item 35, in advance of the very creation of the CEC and the adoption of the EIR (agenda item 41) that support and justify it. The hurried timeline for appointment of the CEC members, which is the subject of item 35, can only be understood as another Board strategy for depriving the public of meaningful input into the General Plan Update, EIR and CEC-creation process.

**4. None of the Revised General Plan Update and EIR Documents are Redlined, Disabling Informed Public Participation.**

At its hearing on September 1, 2020, the Board conducted a tentative vote to approve the General Plan Update and Final EIR, subject to: (a) a significant number of revisions which were, at best, generally and confusingly described to the public at the September 1, 2020 meeting; and (b) the Board’s return to review and vote on the final documents, as revised, on its continued hearing of this matter on September 15, 2020. Late at night on Thursday, September 10, 2020, the revised documents were first made available to the public. The newly published documents, consisting of 24 new exhibits, include thousands of pages. None of the revisions to these pages are identified for the public. It is unreasonable and irresponsible for the Board to require the public to comb through these pages to find the changes, and to assume that this exercise of great importance could be accomplished by the public in the two working days that have been allotted to them. At this time, the public has simply been left behind and does not know what the Board is proposing to enact.

**5. Outreach to the Spanish-Speaking Community Has Not Complied with the State Mandate.**

Furthermore, despite the fact that over 40% of Ventura County identifies as Latino, neither the General Plan Update, nor the Final EIR has been made available in Spanish. Not even the Executive Summary or key excerpts have been provided in Spanish. This is contrary to the State’s requirement that “[a]ll communication should be done in the major languages spoken in the community. This includes any advertising and

written background materials as well as live interpretation at key public events. Some documents, such as the draft general plan or the draft environmental impact report, may be infeasible to translate in their entirety. In such cases, the planning agency should consider translating an executive summary into the major languages spoken in the community.” (*California General Plan Guidelines*, p. 32.) The County’s continued assertion that it need not provide *any* General Plan materials in Spanish does not conform to these Guidelines.

This lack of outreach to the Spanish-speaking community, which may be disproportionately affected by the economic realities of the General Plan Update, has been an ongoing issue during the General Plan process. At the time of its September 1, 2020 hearing, the Board belatedly instructed staff to bring back cost figures to its September 15 hearing so that the General Plan Update could be translated into Spanish after-the-fact of its adoption into law. Unfortunately, even this effort has since been questioned. A new, separate item 42 has now been added to the September 15 agenda, apparently asking the Board whether it would like to rethink its translation instruction. What is most apparent is the manner in which the BOS agenda has been manipulated for two successive Board hearings, to separate, introduce and reevaluate matters pertinent to the General Plan Update, all disabling public participation.

The General Plan EIR drew significant public participation, and the public deserves to hear their elected officials discuss the issue in full. The backroom conversations, the failure to adequately inform the public of opportunities to participate in the Commission hearing virtually, and the failure to make participation equally available to all members of the County community is unacceptable. The County has 30 days to take corrective action under Government Code Section 54960.1. CRC requests that Item 39 be reopened and a new hearing conducted. Further, the members of the Board of Supervisors must clarify to the public the exact nature of all non-public conversations between the Supervisors regarding Item 39.

Please notify CRC of any intent to cure the defects identified above prior to the running of the 30-day period.

Sincerely,



Matt Wickersham

cc: Jeffrey Dintzer, Alston & Bird  
Adam Smith, California Resources Corporation  
Bruce Carter, California Resources Corporation

# **ATTACHMENT**

**[California Resources Corporation Sept. 14, 2020 Comment Letter]**

**LEROY SMITH**  
COUNTY COUNSEL

**MICHAEL G. WALKER**  
CHIEF ASSISTANT

**ALBERTO BOADA**  
**JEFFREY E. BARNES**  
PRINCIPAL ASSISTANTS



**COUNTY COUNSEL**

COUNTY GOVERNMENT CENTER  
800 SOUTH VICTORIA AVENUE, L/C #1830  
VENTURA, CALIFORNIA 93009  
PHONE NO. (805) 654-2580  
FAX NO. (805) 654-2185

**ASSISTANTS**

Charmaine Buchner	John E. Polich
Lisa Canale	Marina Porche
Phebe W. Chu	Joseph J. Randazzo
Mitchell B. Davis	Jaclyn Smith
Emily T. Gardner	Matthew A. Smith
Alison L. Harris	Linda L. Stevenson
Cynthia Krause	Thomas W. Temple
Karen V. Marble	Franchesca S. Verdin
Brett B. McMurdo	Eric Walts
Ilene F. Mickens	Martha J. Wolter
Sean A. Perez	

September 11, 2020

**VIA U.S. MAIL AND E-MAIL: [matt.wickersham@alston.com](mailto:matt.wickersham@alston.com)**

Matt Wickersham  
Alston & Bird  
333 South Hope Street, 16th Floor  
Los Angeles, California 90071-1410

Re: Response to Your Public Records Act Request Dated September 2, 2020

Dear Mr. Wickersham:

Attached hereto are the records responsive to your Public Records Act request to the Ventura County Board of Supervisors dated September 2, 2020.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey E. Barnes", written over a series of horizontal lines.

**JEFFREY E. BARNES**  
Principal Assistant County Counsel

9:18 ↗



Steve >

Tuesday 10:24 AM

Tuesday 4:15 PM

Thanks my mute button is on but I keep getting reports it is not. It must be broken.

Tuesday 10:00 PM

Still just seeing what  
to mapping: sorry  
Travel base

But when it says in the additional revisions shown on the following slides that covers the other map changes correct?

Thank you and  
goodnight

Closed session!!



Linda >

Tue, Sep 1, 10:24 AM

Thanks!

Tue, Sep 1, 4:15 PM

You're not muted

Thanks my invite  
button is on but  
keep getting errors  
it's not. It may be  
a bug.

Tue, Sep 1, 10:00 PM

Still just seeing



