Appendix M

Project Court Documents

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 06/09/2025 TIME: 5:00 PM DEPT: C-63

JUDICIAL OFFICER: KATHERINE A. BACAL
CLERK: Annie Yim
REPORTER/ERM: Not Reported
BAILIFF/COURT ATTENDANT: N/A

CASE NO: **37-2024-00000536-CU-WM-CTL** CASE INIT.DATE: 01/05/2024
CASE TITLE: **California National Forest Foundation vs County of San Diego [IMAGED]**
CASE CATEGORY: Civil CASE TYPE: (U)Writ of Mandate: Writ of Mandamus - Other

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HEARING TYPE: Ex Parte
MOVING PARTY:

The Court having taken this matter under submission on 05/16/2025, now rules as follows:

The petition for writ of mandate is **GRANTED** as to the first cause of action for violation of CEQA**.** The Court intends to address setting a hearing for the remaining causes of action at the upcoming status conference.

Preliminary Matters

Petitioners' unopposed request for judicial notice (ROA # 46) of exhibits 1 and 2 is granted. Evid. Code § 452(b)&(h).

Discussion

This action challenges the County's decision to approve the Alpine Community Park project (the "Project"). Pet. (ROA # 1) ¶ 1. The Project's proposed 25-acre park is within 96.6 acres of undeveloped land; the remaining approximately 70 acres of the property will be preserved for open space. AR 62, 2401, 2463 (proposed active park concept plan map). The Project plans to build a sports complex including several amenities such as a baseball field, all-wheel and bike skills areas, a fitness station, recreational courts, leash free dog area, equestrian staging with corral, a community garden, and picnic areas. *Id.* ¶ 2.

The verified petition for writ of mandate and complaint for declaratory and injunctive relief alleges four causes of action: (1) violations of the California Environmental Quality Act ("CEQA"); (2) violation of California Planning and Zoning Law; (3) violation of the County Biological Mitigation Ordinance; and (4) declaratory relief. ROA # 1. Respondent County of San Diego and its Board of Supervisors and

Department of Parks and Recreation ("County") filed its answer (ROA # 40), and the matter is fully briefed. Opening Brief ("OB"), ROA # 45; Opposition Brief ("Oppo."), ROA # 48; Reply Brief, ROA # 53.

A. CEQA

Review of a public agency's decision under the CEQA is done in accordance with CCP section 1094.5. Pub. Res. Code § 21168. In reviewing an agency's compliance with CEQA the Court's inquiry extends "only to whether there was a prejudicial abuse of discretion." *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 512. "[A]n agency may abuse its discretion under CEQA either by failing to proceed in the manner CEQA provides or by reaching factual conclusions unsupported by substantial evidence." *Id.*, citing Pub. Res. Code § 21168.5. Whether the agency employed correct procedures is reviewed *de novo*, whereas the agency's substantive factual conclusions are accorded "greater deference." *Id*.

Mitigation Measures

1. **Quino Checkerspot Butterfly**

The Quino Checkerspot Butterfly ("Quino") is classified as a federally endangered species. AR 5485. Petitioners argue the EIR acknowledges the significant impacts to the Quino's habitat loss and its population, and that the EIR's claimed mitigation plans to reduce the impacts to less than significant levels are unsupported by evidence. MPA at p.12. Petitioners argue that the mitigation plan to enhance, restore, and monitor the habitat is flawed because under the plan the County need only show at least one Quino on the site or adjacent parcel, and that the measure could be deemed "successful" even if the project causes a net loss of occupied habitat. *Id.* at pp.12-14.

Respondents argue petitioners' claim fails because substantial evidence in the record supports the mitigation measures. First, that under the EIR the County will be required to meet the Endangered Species Act and obtain approval from U.S. Fish and Wildlife Service for an incidental take permit ("ITP"), under which that federal agency will review and approve a habitat conservation plan's measure, monitoring requirements, and implementation. Oppo. at p.11, citing AR 2589. Second, even setting aside the ITP, "[i]mpacts would be mitigated to less-than-significant levels through implementation of MM-BIO-3, which would ensure no net loss of host plants through restoration and enhancement of habitat, provide permanent protection of [Quino] habitat within the proposed preserve portion of the Project, and ensure ongoing monitoring by the County." AR1953. At the hearing, respondents also cited to the special-status wildlife Alpine Park Project map, which shows much of the Quino occurrence sightings from 2019-2020 were within the Project site, but outside the planned park. AR 2555 (figure 4.4-3).

Petitioners argue the ITP evidence is not sufficient because it is essentially a future restoration or conservation plan that constitutes improperly deferred mitigation. OB at p.14-15, citing *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281(holding future habitat management plan inadequate to mitigate impacts on Quino checkerspot butterfly); Reply at p.8. The Court agrees on this point. *Preserve Wild*, *supra* at p.281 (the fact that the City and wildlife agencies must ultimately approve a habitat plan does not cure informational defects).

However, as to the second point, the biological resources report found that MM-BIO-3 specifies the performance standard (i.e., no net loss of Quino host plants) and includes onsite mitigation and monitoring standards. AR 73. Petitioners argue the report does not actually contain any facts to support the County's expert's opinion and thus does not constitute substantial evidence. Reply at p.10. Here, the report states that "regardless of the conservation measures required under the ITP, the County will mitigate for impacts on occupied [Quino] habitat (as further described in MM-BIO-3). MM-BIO-3 also states that "construction activities shall not occur until the ITP is secured. The performance standard is specified (i.e., no net loss of [Quino] host plants), and compensatory onsite mitigation and monitoring standards are also included in MM-BIO-3. MM-BIO-3 was revised slightly in the RS-Draft EIR to make it clear that the County intends to provide compensatory mitigation and habitat restoration as well as monitoring regardless of the status of the ITP." AR 73. MM-BIO-03 also provides that regardless of the ITP conservation measures, the County will mitigate for impacts on occupied [Quino] habitat by providing, at a minimum, on-site preservation of occupied habitat for [Quino] within the open space and ensure that no net loss of [Quino] host plants will occur because of the project. The County DPR shall ensure that there is no net loss of [Quino] host plants by performing on-site enhancement and restoration activities within [Quino] habitat, including planting dot-seed plantain, removing thatch to support healthy populations of dot-seed plantain, and maintaining and monitoring these enhancement areas for a minimum of 5 years." AR2589. Additionally, the County will demonstrate that [Quino] persists on the Project site at the end of the 5-year restoration and enhancement period. If [Quino] can no longer be found on either the County's preserve or within the adjacent Wright's Field in a normal flight-year at the end of the 5-year restoration period, the County will secure a specific off-site parcel that will contribute meaningfully to the species' long-term conservation." *Id.* In light of this, the report contains substantial evidence showing the County is not impermissibly deferring mitigation measures. Unlike in *Preserve Wild Santee,* the EIR here set performance standards and explained how the impact can be mitigated in a specified way via vegetation management and timing for assessment. Accordingly, the petition is denied as to this issue.

2. **Western Spadefoot Toad**

The Western Spadefoot Toad ("Spadefoot") is a candidate for listing under the federal endangered species act. AR 1497. Petitioners argue the EIR's finding that the Project will have no impact on the surrounding Spadefoot population lacks evidence. OB at p.16. They argue their expert showed the Spadefoot can travel up to 600 meters from their breeding pools, meaning they may migrate into the development footprint and thus transmit waterborne contamination from vehicles, animal waste and landscaping, and Argentine Ants that impact Spadefoot's prey. *Id*., citing AR 1340-1342 (also noting the USGS recommended an undeveloped buffer measuring 300 to 400 meters around breeding ponds). Petitioners argue the EIR's conclusion that the Spadefoot would only travel approximately 262 meters from pools to conclude no impact would occur ignores petitioners' expert evidence, and the EIR failed to address this in response to petitioners' comments. OB at p.17, citing *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 940 (The Guidelines state that an EIR should identify '[a]reas of controversy known to the lead agency including issues raised by [other] agencies." (Guidelines, § 15123, subd. (b)(2).) 'Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts." (Guidelines, § 15151.) '[M]ajor environmental issues raised when the lead agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail. (Guidelines, § 15088, subd.(c).").

The County argues petitioners' comments on the recirculated Spadefoot analysis was late and, thus, the County did not have a duty to respond. Oppo. at p.16, citing AR 5369 (Nov. 7, 2023 letter) and citing *Gray v. Cnty. of Madera* (2008) 167 Cal.App.4th 1099, 1111 (under CEQA, lead agency is not required to respond to late comments). Petitioners argue they submitted expert comments on the edge effects in the draft EIR in 2021, and the recirculated and final EIR did not respond to those comments. Reply at p.12-13, citing AR 1336, 1341.

Here, the record shows petitioners submitted comments on the Spadefoot, including the need to mitigate potential adverse effects associated with the development edge to provide for buffer distances of 300 to 400 meters around breeding ponds in 2021. AR 1336, 1340-1341. The EIR does not appear to address petitioners' expert comments on this issue. The County's analysis of indirect impacts on Wright's Field biological resources -- potential impacts approximately 600 to 800 feet from the eastern edge of the field -- also does not respond to the issue.

In its briefing and at the hearing, the County argued it relied on the study cited by petitioners' own expert (the 2019 Baumberger study) to adopt the datapoint of 262 meters in the EIR. Oppo. at p.16, citing *Claremont Canyon Conservancy v. Regents of Univ. of California* (2023) 92 Cal. App. 5th 474, 483 (for the proposition that an EIR does not need to analyze every permutation of the data or address all variations of the issues). Petitioner's expert review, however, explained that a more recent study – by Halstead et al. in 2021 – followed up on Baumberger's earlier study findings, and that Halstead's study found a distance of 486 meters. AR1339-1340. The expert's review also noted the USGS recommended an undeveloped buffer measuring 300 to 400 meters. AR 1340. Thus, the issue with the EIR's reliance on the 262 meters datapoint is not merely about an agency's discretion of what is ultimately included in an EIR. Rather, it is that the EIR does not address and provide a reasoned analysis as to why the smaller buffer distance would support the EIR's conclusions on the Project's impacts to Spadefoot despite the newer conflicting evidence in the record. Accordingly, petitioners have shown the County erred when it concluded the Project's impact to Spadefoot would be less than significant after mitigation.

3. **Pallid Bat**

The Pallid Bat species is known to roost in San Diego County and the bats rely on grasslands for foraging. AR 2575-78. Petitioners argue the EIR's proposed mitigation measures under MM-BIO-7 to install bat boxes before removing vegetation and commencing construction, and MM-BIO-8 requiring construction occur at least 200 feet from potential roost sites, lack substantial evidence to show these measures are effective to reduce the Project's impact to less than significant. OB at p.18-19.

The EIR provides substantial evidence that the bat boxes will be included with other measures to mitigate impacts to less than significant. Oppo. at p.18, citing AR 1948–49 and AR 1955 (discusses restoration of native grassland and preservation of property in addition to active management on-site for the proposed preserve land, plus implementing mitigation measures of pallid bat boxes, bat roost avoidance, native grassland restoration, preservation of sensitive habituates; and construction is expected to occur during daytime hours and it is not expected to alter bats' natural nocturnal behaviors), AR 2593–95. The EIR also contains substantial evidence to show consideration will be given regarding

temperature and monitoring of the bat boxes. AR 2593 (County will work with bat expert to design and install the bat boxes; and design and placement will be considered for how to best maintain proper roost temperature; monitoring will be conducted quarterly for first 2 years and twice-yearly for years 3 through 5 after installation).

However, as for the sound buffer distance to potential roosting sites – the County's expert recommended that mitigation "preclude[] construction activities within a minimum 500 feet of potential roost sites during the pupping season." Reply at p.13, citing AR 12249. The County does not show that mitigation efforts of requiring construction occur at least 200 feet from the nearest potential roosting spot (AR 2593) is supported by substantial evidence. Accordingly, the petitioners have shown no substantial evidence supports the EIR's proposed mitigation of only a 200-foot buffer construction zone.

At the hearing, the County argued that no Pallid bats have been identified on the Project site. This argument appears to have been raised for the first time at the hearing. The County's opposition does not appear to cite to the administrative record or other authority on this point. Even assuming no Pallid bats have been spotted, this does not change the analysis, as the record shows that Pallid bats are very difficult to detect and the EIR identified Pallid bat impacts that requires mitigation measures. AR 2578.

Wildfire Impacts

Petitioners argue the EIR does not contain analysis of the significance of the Project's wildfire impacts without the mitigation measures. OB at p.22. They argue that instead, the EIR improperly treated mitigation measures as Project components, which impermissibility treats the analysis of impacts and mitigation measures as one issue. OB at p.21, citing *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 653; *People ex rel. Bonta v. County of Lake* (2024) 105 Cal.App.5th at 1235-36 ("[F]ailure to separately identify and analyze the significant impacts of the fire risk to the Project area and its baseline existing conditions before proposing mitigation measures violates CEQA.)"

The County argues the EIR includes a wildfire impact analysis in Section 4.9, section 4.20, and Appendix J, K, and L. Oppo. at p.21 citing AR 2695 *et seq*. (Fire and Emergency Operation Assessment prepared that identified wildfire risks at the Project site, including ignition risks), 2881 *et seq*. (Project site is in a "Very High Fire Hazard Severity Zone;" and discussing together the ignition risks and recommended fire prevention measures such as creating buffer zones along the parcel, developing the land and considering undergrounding electric utility services, placing developed park features to contain wildfire, providing improved fire-safe parking, adding on-site volunteer, maintenance staff and a park ranger, and clearing vegetation), 2310 *et seq*. (discussing expected wildfire behavior, site development risk factors, and discussing risks and measures together); 2340 *et seq*. (fire evacuation analysis and assumptions), and 2374 *et seq*. (defensible space requirements letter).

Here, the EIR states the measures will reduce wildfire risk to less than significant levels. Importantly, though, the EIR is missing information on *how* it analyzed the effectiveness of the proposed measures. There is no analysis of how ignition rates will be reduced by the proposed wildfire measures. Reply at p.18, citing *Bonta*, *supra,*105 Cal.App.5th at 1233 (an adequate analysis may include the number of ignitions that occur and how that rate has reduced with the proposed wildfire safety measures). Because

the EIR does not separately analyze the significant impacts of the fire risk and its baseline existing conditions before it proposed mitigation measures but instead treats the impacts analysis and mitigation measures as one issue, the EIR's wildfire analysis is deficient under CEQA.

Vehicle Traffic Public Safety Impacts

The petition alleges the Project is adjacent to a high-speed roadway that contains areas of low visibility and has been the location of multiple fatal accidents. The petition alleges the Project would create a multi-way stop in a low visibility area, increasing traffic risks. Pet. ¶¶ 35, 55.

Petitioners argue the EIR does not contain any analysis of the Project's potential traffic hazard impacts to pedestrians and bicyclists. MPA at pp.24-25. They argue that the Project is anticipated to draw approximately 300-500 people per day on weekdays, 1,000 per day on weekends, and up to 2,000 at the same time during special events. AR 2314. They argue the visitors who park on the shoulder of South Grade Road would need to walk on the road shoulder, and that South Grade Road is known for several accidents, including some fatal. MPA at p.24, citing AR 2462 (240 parking space lot); AR 5544 (noting three crashes along South Grade Road, with two involving pedestrians and two of the three resulting in fatalities).

The County argues substantial evidence supports the EIR's determination that the Project will not substantially increase hazards because the Project does not conflict with the circulation system of transit, roadway, bike and pedestrian facilities. Oppo. at p.25, citing AR 75, AR 2843-44. The County also contends the Project does not include any "incompatible uses" such as farm equipment that might increase congestion on the road. *Id.,* citing AR 2846. Additionally, argues the County, the Project is anticipated to generate a number of trips onto South Grade Road that will not "degrade" the road to a "substandard level of service." *Id.,* citing AR 76. It plans to install traffic control devices at a later date for the Project's driveway and South Grade Road, but the type of device has not yet been determined because the location of the driveway is not yet known. *Id.* at p.26.

> CEQA requires that an EIR include a "detailed statement" setting forth the "significant effects on the environment of the proposed Project." (Pub. Res. Code, § 21100, subd. (b)(1).) It also requires that an EIR "contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and were therefore not discussed in detail." (Guidelines, § 15128.) "[A] 'significant effect on the environment' under CEQA is a substantial or potentially substantial adverse change in the physical conditions existing within the area affected by the project.

City of Maywood v. Los Angeles Unified School Dist. (2012) 208 Cal.App.4th 362, 390–391.

Appendix G to the CEQA Guidelines recommends that, in determining whether a project will have significant traffic impacts, lead agencies consider whether it will "[s]ubstantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?" 14 Cal. Code Regs. ("Guidelines") appen. G, § XVII, subd. (c). The Guidelines also ask whether the project will "conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?" *Id.*, subd. (b).

Here, although evidence in the record addresses the Guidelines in Appendix G regarding incompatible uses, the EIR lacks substantial evidence to the potential traffic hazard impacts to pedestrians and bicyclists concerning South Grade Road. In particular, the EIR lacks substantial evidence as to the yet to-be-determined sight distance analysis for the traffic control device at the project's driveway, and analysis as to pedestrians who would be parking and walking along South Grade Road when the 240-vehicle space parking lot is full. The Court agrees with petitioners that *City of Maywood v. Los Angeles Unified School Dist*. is instructive. *Id.* (2012) 208 Cal.App.4th 362, 392 (concluding the FEIR did not analyze pedestrian hazards associated with the project and the extent to which the presence of an active roadway would impact pedestrian safety). The County does not cite to evidence in the record showing it analyzed and disclosed the traffic hazard impacts concerning South Grade Road.

Additionally, though an EIR is not required to include information that is "not 'reasonably feasible' for the agency to obtain and provide," *Gooden v. County of Los Angeles* (2024) 106 Cal.App.5th 1, 17) the County does not provide any supported reason as to why it could not yet determine the project's driveway location to assess the sight distance analysis and appropriate intersection control device. The purpose of an EIR is to inform the public and officials of "the environmental consequences of their decisions before they are made." *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564; see also Pub. Res. Code § 21061 ("The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project"). Petitioners have shown the County did not proceed in the manner required by CEQA by delaying the analysis and potential impacts of the driveway, multi-way stop control, and sight distance analysis on traffic collisions, including as to pedestrians and bicyclists.

At the hearing, the County made a "reverse CEQA" argument. This argument was made for the first time at the hearing, does not apply here, and does not lead to a different result. The California Supreme Court has also noted that it finds the term "reverse CEQA" to be "misleading and inapt. Because CEQA does sometimes require analysis of the effect of existing conditions on a project's future residents or users, such analysis is not the 'reverse' of what CEQA mandates." *California Building Industry Assn. v. Bay Area Air Quality Management Dist*. (2015) 62 Cal.4th 369, 386, fn. 11.

Off-Site Alternatives

Petitioners argue the EIR should have considered an off-site alternative. They argue the County's reasoning for concluding off-site alternatives would not meet many of the project objections is unsupported – the County did not provide any information on the properties it supposedly vetted and rejected, and the document to which the County cited that supposedly contained details of the sites (i.e., the Master Response document) does not actually contain any such information. MPA at p.28, citing AR 167 (referencing MR-12 (Parks Master Plan) for details related to the sites the County considered prior to purchasing the property), AR 85 (no details in the Parks Master Plan included). The County counters that the EIR analyzed five alternatives for consideration: No Project (Alternative 1); Sports Complex (Alternative 2); Reconfigured Project (Alternative 3); Reduced Project (Alternative 4); and Passive Park (Alternative 5). AR 2955-2957.

The Guidelines require that an EIR "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation. An EIR is not required to consider alternatives which are infeasible." Guidelines, § 15126.6(a). The Guidelines define "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." Guidelines, § 15364. "Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries ... and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site." Guidelines, § 15126.6, subd. (f)(1).

Petitioners fault the County for failing to analyze an off-site alternative. Reply at p.21. However, the County was not obligated to consider that type of alterative. "CEQA Guidelines section 15126.6, subdivision (a), which prescribes the scope of an alternative analysis, states that an agency must 'describe a range of reasonable alternatives to the project, *or* to the location of the project." (Italics added.) The guideline anticipates that a different location can constitute one of a range of reasonable alternatives, but it does not require such an alternative." *Yerba Buena Neighborhood Consortium, LLC v. Regents of University of California* (2023) 95 Cal.App.5th 779, 797. Petitioners also argue the County's citation to documents in the administrative record to support its alternatives analysis was inadequate because the documents were not included in the EIR. Reply at pp.22-23. Yet the Guidelines allow for additional information explaining the choice of alternatives to be included in the administrative record. Guidelines § 15126.6(c). Accordingly, no abuse of discretion has been shown regarding failing to provide a reasonable range of alternatives or dismissing viable alternatives without substantial evidence.

Conclusion

For the reasons stated, petitioners' first cause of action for violation of the CEQA is **GRANTED**.

Parties to meet and confer to prepare the proposed writ in accordance with this ruling.

The minute order is the order of the Court.

The Clerk to serve notice.

IT IS SO ORDERED.

Katherine A. Bacal

Judge Katherine A. Bacal

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CLEVELAND NATIONAL FOREST FOUNDATION and CALIFORNIA NATIVE PLANT SOCIETY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO – CENTRAL DIVISION

CLEVELAND NATIONAL FOREST FOUNDATION and CALIFORNIA NATIVE PLANT SOCIETY

Petitioners,

v.

COUNTY OF SAN DIEGO; SAN DIEGO COUNTY BOARD OF SUPERVISORS; and DOES 1 through 20 inclusive,

Respondents,

SAN DIEGO COUNTY DEPARTMENT OF PARKS AND RECREATION; and DOES 21 through 40, inclusive,

Real Party in Interest.

Case No. 37-2024-00000536-CU-WM-CTL
Hon. Katherine A. Bacal, Dept. 63

(California Environmental Quality Act)

[Code Civ. Proc. § 1094.5 (alternatively, § 1085; California Environmental Quality Act, Pub. Resources Code, §§ 21000 et seq.; California Planning and Zoning Law, Gov. Code § 65300, et seq.; County of San Diego Code of Regulatory Ordinances § 86.501 et seq.]

NOTICE OF ENTRY OF AMENDED JUDGMENT GRANTING PEREMPTORY WRIT OF MANDATE

Action Filed: January 5, 2024
Trial Date: May 16, 2025; August 1, 2025

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 20, 2026, the Court in the above-captioned action, entered the Amended Judgment Granting Peremptory Writ of Mandate. A true and correct copy of the Amended Judgment is attached hereto as **Exhibit A**.

DATED: February 5, 2026

SHUTE, MIHALY & WEINBERGER LLP

By: _____

JOSEPH D. PETTA
SHASTA M. FIELDS

Attorneys for Petitioners
CLEVELAND NATIONAL FOREST FOUNDATION and CALIFORNIA NATIVE PLANT SOCIETY

Exhibit A

FILED
San Diego Superior Court
Central Division

JAN 20 2026

Clerk of the Superior Court
By: A. Yim, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CLEVELAND NATIONAL FOREST FOUNDATION and CALIFORNIA NATIVE PLANT SOCIETY,

Petitioners,

v.

COUNTY OF SAN DIEGO; SAN DIEGO COUNTY BOARD OF SUPERVISORS; and DOES 1 through 20, inclusive,

Respondents.

SAN DIEGO COUNTY DEPARTMENT OF PARKS AND RECREATION; and DOES 21 through 40, inclusive,

Real Party in Interest

No. 37-2024-00000536-CU-WM-CTL
Action Filed: January 5, 2024

[~~PROPOSED~~] JUDGMENT

Dept: C-63
Judge: Hon. Katherine A. Bacal
Trial Dates: May 16, 2025; August 1, 2025

[IMAGED FILE]

The above-captioned action came on for regular hearing in Department C-63 of the above-entitled court, the Honorable Katherine A. Bacal presiding. Petitioners Cleveland National Forest Foundation and California Native Plant Society (collectively, "Petitioners") were represented by Shute, Mihaly & Weinberger LLP, Joseph D. Petta and Shasta M. Fields. Respondent County of San Diego (also sued as the San Diego County Board of Supervisors, and also sued as Real Party in Interest San Diego County Department of Parks and Recreation) ("Respondent" or "County") were represented by Office of County Counsel, Michael P. Masterson.

Petitioners' Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief alleges four causes of action: (1) violations of the California Environmental Quality Act ("CEQA"); (2) violation of California Planning and Zoning Law; (3) violation of County Ordinance; and (4) Declaratory Relief. (ROA 1.)

On May 15, 2025, this Court issued a tentative ruling bifurcating the matter to hear arguments only as to the alleged violations of CEQA at the May 16, 2025 merits hearing, and for the remaining causes of action to be heard at a later date. (ROA 62.) On May 16, 2025, the Court heard argument from counsel on the CEQA cause of action, and issued a Minute Order taking the matter under submission and setting a Status Conference for June 13, 2025. (ROA 65.) On June 9, 2025, the Court issued a Minute Order granting in part the petition for writ of mandate as to the first cause of action for violation of CEQA. (ROA 68; Attached hereto as Exhibit A.)

At the June 13, 2025 status conference, Petitioners dismissed the petition's second and third causes of action. (ROA 70.) The Court also set the hearing on the remaining cause of action, declaratory relief regarding the County's Biological Mitigation Ordinance (BMO), for August 1, 2025. (ROA 70.) On July 31, 2025, the County submitted a statement of decision request, asking the Court to address identified factual and legal issues. (ROA 77–78.) At the August 1, 2025 hearing, the Court found in favor of the County on the fourth cause of action for declaratory relief regarding the BMO, ordered the County to prepare a proposed statement of decision on this issue, and set a status conference for August 7, 2025. (ROA 76.) At the August

7, 2025 status conference, the Court found the County's request for a statement of decision on the CEQA issue to be untimely.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment be entered as follows:

1. As to the first cause of action for violation of CEQA, the petition for writ of mandate is granted in part and denied in part, for the reasons stated in the Court's June 9, 2025 Minute Order. (ROA 68; Attached hereto as Exhibit A.) A peremptory writ of mandate shall issue directing Respondent to take the steps needed to comply with the June 9, 2025 Minute Order.

2. The second and third causes of action, for violations of the Planning and Zoning Law and County Ordinance, are dismissed with prejudice.

3. The fourth cause of action, for declaratory relief regarding the County's BMO, is dismissed with prejudice for the reasons stated in the Statement of Decision. (Attached hereto as Exhibit B.)

4. Pursuant to Public Resources Code section 21168.9(b), the Court retains jurisdiction over Respondent's proceedings by way of a return to the peremptory writ of mandate until the Court has determined that Respondent has complied with the provisions of the writ of mandate.

5. Awards of costs and attorneys' fees, if any, will be provided by the Court per subsequent memorandum of costs and/or motions. Following said memorandum and/or motions and rulings by the Court in response thereto, the clerk of the Court is to insert the award of such fees and costs, if any, in this judgment in the space provided below. Costs and attorneys' fees are awarded to Petitioners and against Respondent in the amount of $_____.

DATED: 1/20/26

Honorable Katherine A. Bacal
Judge of the Superior Court

2015268.1

PROOF OF SERVICE

Cleveland National Forest Foundation, et al. v. County of San Diego, et al.
Case No. 37-2024-00000536-CU-WM-CTL
San Diego Superior Court

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 396 Hayes Street, San Francisco, CA 94102.

On January 20, 2026, I served true copies of the following document(s) described as:

[PROPOSED] JUDGMENT

on the parties in this action as follows:

Claudia G. Silva, County Counsel
By: Joshua M. Heinlein, Chief Deputy
Michael P. Masterson, Senior Deputy
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Attorneys for Respondents:
COUNTY OF SAN DIEGO; SAN DIEGO COUNTY BOARD OF SUPERVISORS; and SAN DIEGO COUNTY DEPARTMENT OF PARKS AND RECREATION

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address tsanchez@smwlaw.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on January 20, 2026, at San Francisco, California.

Tuloa Sanchez

PROOF OF SERVICE

Cleveland National Forest Foundation, et al. v. County of San Diego, et al.
Case No. 37-2024-00000536-CU-WM-CTL
San Diego Superior Court

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 396 Hayes Street, San Francisco, CA 94102.

On February 5, 2026, I served true copies of the following document(s) described as:

NOTICE OF ENTRY OF AMENDED JUDGMENT GRANTING PEREMPTORY WRIT OF MANDATE

on the parties in this action as follows:

Claudia G. Silva, County Counsel
By: Joshua M. Heinlein, Chief Deputy
Michael P. Masterson, Senior Deputy
OFFICE OF COUNTY COUNSEL, COUNTY OF SAN DIEGO
1600 Pacific Highway, Room 355
San Diego, CA 92101-2469
Tel: (619) 531-5850
Fax: (619) 531-6005
Email: joshua.heinlein@sdcounty.ca.gov
michael.masterson@sdcounty.ca.gov

Attorneys for Respondents:
COUNTY OF SAN DIEGO; SAN DIEGO COUNTY BOARD OF SUPERVISORS; and SAN DIEGO COUNTY DEPARTMENT OF PARKS AND RECREATION

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Tuloa Sanchez

2023235.1

FILED
San Diego Superior Court
Central Division

JAN 23 2026

Clerk of the Superior Court
By: A. Yim, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO – CENTRAL DIVISION

CLEVELAND NATIONAL FOREST FOUNDATION and CALIFORNIA NATIVE PLANT SOCIETY

Petitioners,

v.

COUNTY OF SAN DIEGO; SAN DIEGO COUNTY BOARD OF SUPERVISORS; and DOES 1 through 20 inclusive,

Respondents,

SAN DIEGO COUNTY DEPARTMENT OF PARKS AND RECREATION; and DOES 21 through 40, inclusive,

Real Party in Interest.

Case No. 37-2024-00000536-CU-WM-CTL
Hon. Katherine A. Bacal, Dept. 63

(California Environmental Quality Act)

~~[PROPOSED]~~ PEREMPTORY WRIT OF MANDATE

[Code Civ. Proc. § 1094.5 (alternatively, § 1085; California Environmental Quality Act, Pub. Resources Code, §§ 21000 et seq.]

Action Filed: January 5, 2024
Trial Dates: May 16, 2025; August 1, 2025

TO RESPONDENT COUNTY OF SAN DIEGO, ITS BOARD OF SUPERVISORS, AND DEPARTMENT OF PARKS AND RECREATION:

Judgment having been entered in this proceeding, ordering that a peremptory writ of mandate be issued from this Court,

YOU ARE SO ORDERED, upon receiving service of this writ, to:

1. Set aside the San Diego County Board of Supervisors' December 6, 2023 certification of the Environmental Impact Report ("EIR") for the Alpine County Park Project ("Project") (State Clearinghouse No. 2021030196) and rescind all Project approvals, including but not limited to the County's adoption of Environmental Findings and Mitigation Monitoring and Reporting Program.

2. File and serve an initial return to the writ no later than 75 days after service of the writ. The return shall specify the actions taken to comply with the terms of the peremptory writ of mandate.

3. Any objections to the return to the writ shall be filed with the Court and served on Respondent no later than 30 days after service of the applicable return to the writ. Any reply to those objections shall be filed with the Court and served on the objecting party no later than 20 days after service of the objections.

4. Under Public Resources Code section 21168.9, subdivision (b), this Court reserves jurisdiction over Respondent's proceedings by way of a return to this peremptory writ of mandate until the Court has determined that Respondent has complied with the provisions of this writ of mandate.

5. To the extent that Respondent revises the EIR for the Project, the revised environmental analysis must address only the CEQA deficiencies identified in the Court's June 9, 2025 Minute Order (ROA 68). Having found in Respondent's favor on the issues raised in the petition, except for those matters described below, the Court finds that the following action is necessary under Public Resources Code section 21168.9(b) to comply with the provisions of CEQA:

a. Western Spadefoot Toad. Respondent shall address, providing reasoned analysis supported by substantial evidence in the record, comments submitted by Petitioners' expert stating that the Spadefoot can travel up to 600 meters from their breeding pools and noting that the USGS recommended an undeveloped buffer of 300 to 400 meters around breeding pools.

b. Pallid Bat. Prior to making any finding that the 200-foot avoidance buffer from potential pallid bat roost sites, as set forth in mitigation measure MM-BIO-8, will avoid or substantially reduce a significant impact, Respondent shall support such a finding with substantial evidence in the record.

c. Wildfire Impacts. Respondent shall separately analyze the significant impacts of the fire risk and its baseline existing conditions before proposing mitigation measures, and shall provide information on *how* it analyzed the effectiveness of the proposed measures.

d. Vehicle Traffic Public Safety. Respondent shall analyze and disclose the traffic hazard impacts concerning South Grade Road, in particular, whether the Project will substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections). In doing so, Respondent shall not delay reasonably feasible analysis and potential impacts of the Project's driveway, the driveway's traffic control device, and sight distance analysis on traffic collisions, including as to pedestrians and bicyclists.

6. Respondent is further ordered to suspend all ministerial approvals in furtherance of the Project that could result in any change or alteration to the physical environment and Respondent may not make any physical changes to the environment in furtherance of the Project, pending discharge of the writ in accordance with the terms of this writ.

7. Under Public Resources Code section 21168.9 subdivision (c), this Court does not direct Respondent to exercise their lawful discretion in any particular way.

Let the foregoing peremptory writ of mandate issue.

DATED: 01/23, 2025

CLERK OF THE SUPERIOR COURT

2015270.1

PROOF OF SERVICE

Cleveland National Forest Foundation, et al. v. County of San Diego, et al.
Case No. 37-2024-00000536-CU-WM-CTL
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Attorneys for Respondents:
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Tuloa Sanchez