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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF ALAMEDA**

15 CENTER FOR BIOLOGICAL DIVERSITY;
16 NATURAL RESOURCES DEFENSE
17 COUNCIL, INC.; and PLANNING AND
CONSERVATION LEAGUE, non-profit
corporations,

18 **Petitioners/Plaintiffs,**
19 v.

20 CALIFORNIA DEPARTMENT OF
TRANSPORTATION, a public entity; and
21 DOES 1 through 20, inclusive,

22 **Respondents/Defendants.**

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Superior Court of California,
County of Alameda

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Case No.: **24CV077619**

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

[Code Civ. Proc. §§ 1085, 1094.5; Pub.
Resources Code § 21000 *et seq.* (CEQA)]

23 VERIFIED PETITION FOR WRIT OF MANDATE; COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF

1 Petitioners/Plaintiffs Center for Biological Diversity, Natural Resources Defense Council, Inc.,
2 and Planning and Conservation League (collectively, “Petitioners/Plaintiffs”) bring suit on their
3 own behalf, on behalf of their members, on behalf of the general public, and in the public interest
4 to enforce the California Environmental Quality Act (CEQA or the Act) (Pub. Resources Code,
5 § 21000 *et seq.*). Petitioners allege as follows:

6 **INTRODUCTION**

7 1. This case challenges the approval by Respondent/Defendant California
8 Department of Transportation (“Caltrans”) of the Yolo 80 Corridor Improvements Project
9 (“Project”), which would widen Interstate 80 (“I-80”) and United States Route 50 (“US-50”).
10 The Project will impede the state’s climate objectives, worsen air pollution in vulnerable
11 communities, and degrade valuable habitats—without ultimately achieving its goals for reducing
12 traffic congestion. Caltrans unlawfully failed to adequately analyze, publicly disclose, or mitigate
13 these impacts in its Environmental Impact Report (“EIR”), in violation of CEQA and the Act’s
14 implementing guidelines (Cal. Code Reg., tit. 14, § 15000 *et seq.*; hereafter “CEQA Guidelines”).

15 2. Highway expansions are not viable long-term solutions to congestion. While
16 building more lanes may briefly increase average travel speeds and temporarily lessen traffic
17 congestion, that very fact induces more driving by tempting more drivers onto the road.
18 Congested conditions commonly soon return—just with more cars on the road. More driving
19 worsens air pollution and increases greenhouse gas emissions from the transportation sector, the
20 largest source of greenhouse gas in California. Highway widening also harms wildlife by causing
21 direct mortality through vehicle collisions as well as degrading connectivity, which limits the
22 ability of animals to find food, shelter, and mates.

23 3. This Project is no different. While Caltrans claims that widening I-80 and US-50
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1 will alleviate congestion, the modeling that Caltrans used to support this claim was built on
2 spurious assumptions. By inducing drivers onto the road, the Project will emit more air pollutants
3 and greenhouse gas than the EIR admits, including in areas that already exceed national ambient
4 air quality standards for ozone and particulate-matter pollution. And the EIR failed to consider a
5 reasonable range of alternatives that would lessen these impacts—even alternative lane
6 configurations specified by the existing regional transportation plan.

7 4. The Project footprint bisects the Yolo Bypass Wildlife Area, as well as a Globally
8 Important Bird Area, and was designated by California Department of Fish and Wildlife as
9 having the highest ecoregion biodiversity ranking. Numerous special-status species live in or
10 migrate through the Project area and will be harmed by the noise, light, construction, and
11 permanent impacts of the Project. The EIR failed to account for or mitigate these impacts despite
12 recommendations from Petitioners/Plaintiffs and expert agencies on how to address them.

13 5. The EIR acknowledged only one significant environmental impact: transportation.
14 As recognized by Senate Bill No. 743 (2013–2014 Reg. Sess.) and the related CEQA Guidelines
15 section 15064.3, transportation impacts are analyzed in EIRs because they are closely tied to
16 greenhouse gas emissions. Despite admitting that the Project will lead to significant
17 transportation impacts, the EIR proposes to only mitigate about half of that impact. CEQA
18 generally prohibits approval of a project that will have significant unmitigated impacts unless
19 mitigation is not feasible. Here, Caltrans allocated around 10 percent of the Project’s \$465
20 million budget for mitigation. It failed to adequately explain why it could not have done more.

21 6. Caltrans had a straightforward incentive to rush this Project through instead of
22 analyzing, disclosing, and mitigating the Project’s full impacts: The agency is facing a September
23 30, 2024 deadline to get the project approved and under contract if it wants access to \$85.9

1 million in federal Infrastructure for Rebuilding America (INFRA) grant funding. But an agency's
2 mad dash to secure federal funding is not a valid reason to violate state law.

3 7. Caltrans was so intent on cutting corners to rush this project through that,
4 according to whistleblower allegations made by a former senior Caltrans official, Caltrans tried
5 to hide the true scope of the Project by "piecemealing" it into separate, purportedly independent
6 projects to hide the overall project's true impact. Caltrans prepared I-80 and US-50 for this
7 Project's lane additions under the guise of earlier construction for "pavement rehabilitation."
8 CEQA prohibits such piecemealing.

9 8. Caltrans' EIR for the Project violates CEQA. The EIR does not adequately inform
10 the public and decision makers about the true environmental and health effects of the Project.
11 And it does not mitigate those impacts. This Court should issue a writ directing Caltrans to
12 vacate and set aside its certification of the EIR and approval of the Project.

13 **PARTIES**

14 9. Petitioner/Plaintiff Center for Biological Diversity ("Center") is a national
15 conservation organization and California nonprofit corporation that works through science, law,
16 and policy to secure a future for all species, great or small, hovering on the brink of extinction.
17 The Center has over 89,000 members worldwide, including many in Solano, Yolo, and
18 Sacramento counties. The Center has worked for many years to protect imperiled plants and
19 wildlife, open space, air and water quality, and the overall quality of life for people in California.

20 10. Petitioner/Plaintiff Natural Resources Defense Council, Inc. ("NRDC"), is a
21 national, nonprofit environmental membership organization whose purpose is to safeguard the
22 Earth – its people, its plants and animals, and the natural systems on which all life depends.
23 NRDC was founded in 1970, and maintains offices in Santa Monica, California and San

1 Francisco, California. NRDC has hundreds of thousands of members and online activists,
2 including members who are residents and taxpayers in Solano, Yolo, and Sacramento counties.
3 NRDC's membership includes California residents who pay California state taxes and who use I-
4 80, US-50, and the areas adversely affected by the Project. NRDC and its members have a direct
5 interest in avoiding or reducing the Project's environmental harms and in Caltrans' compliance
6 with CEQA and the CEQA Guidelines. NRDC submitted comments prior to the approval of the
7 EIR that addressed inadequacies in Caltrans' environmental review.

8 11. Petitioner/Plaintiff Planning and Conservation League ("PCL") is a nonprofit
9 advocacy organization empowered to protect and restore California's natural environment and to
10 promote and defend the public health and safety of the people of California through legislative,
11 administrative, and judicial action. Founded in 1965, PCL was the first organization devoted to
12 bettering Californians' quality of life through environmental legislation. One of the
13 organization's earliest accomplishments was the enactment in 1970 of the California
14 Environmental Quality Act ("CEQA"), which PCL helped draft and has continually supported
15 over the years, and which lies at the heart of this action. PCL's membership includes California
16 residents who pay California state taxes and reside in, own property in, or use areas affected by
17 the Project.

18 12. Respondent/Defendant California Department of Transportation ("Caltrans") is an
19 agency in the executive branch of the State of California, operating within the California State
20 Transportation Agency. Caltrans is the lead agency under CEQA for the Project.

21 13. Petitioners/Plaintiffs do not know the true names of Respondents/Defendants
22 Does 1 through 20, inclusive, and therefore sue them by those fictitious names.

23 Petitioners/Plaintiffs will amend this Petition and Complaint when Petitioners/Plaintiffs learn of
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1 their names.

2 **JURISDICTION AND VENUE**

3 14. This Court has jurisdiction over this action under California Code of Civil
4 Procedure sections 1085, 1094.5, and 1060, and California Public Resources Code sections
5 21168, 21168.5, and 21168.9.

6 15. Venue is proper in this Court under California Code of Civil Procedure sections
7 393, 395, and 401 because Caltrans is a state agency headquartered in Sacramento County, the
8 cause of action arises in Sacramento County, and the California Attorney General has an office
9 in Alameda County.

10 16. Petitioners/Plaintiffs exhausted all administrative remedies prior to filing this
11 action by participating in the administrative process for the EIR through written comments. The
12 legal deficiencies alleged in this Petition and Complaint were raised through the public comment
13 process.

14 17. This action was timely filed within 30 days of Caltrans' posting of its May 1,
15 2024 Notice of Determination under CEQA.

16 18. Petitioners/Plaintiffs have provided written notice of their intention to file this
17 petition to Respondent/Defendant in compliance with California Public Resources Code section
18 21167.5. That written notice to Respondent/Defendant, along with proof of service, are attached
19 as Exhibit A hereto.

20 19. Petitioners/Plaintiffs have served the Attorney General with a copy of this petition
21 along with a notice of its filing, in compliance with California Public Resources Code section
22 21167.7. That notice of filing to the Attorney General, along with proof of service, are attached
23 as Exhibit B hereto.

1 20. Petitioners/Plaintiffs have notified Respondent/Defendant that they are electing to
2 prepare the administrative record as provided under California Public Resources Code section
3 21167.6, subdivision (b)(2). That notice of election is attached as Exhibit C hereto.

4 21. Petitioners/Plaintiffs do not have a plain, speedy, or adequate remedy at law.

5 22. The maintenance of this action is for the purpose of enforcing important public
6 policies of the State of California with respect to the protection of the environment and public
7 participation under CEQA. The maintenance and prosecution of this action will confer a
8 substantial benefit upon the public by protecting the public from the environmental and other
9 harms alleged in this Petition and Complaint. As such, Petitioners/Plaintiffs are entitled to the
10 recovery of reasonable attorneys' fees under California Code of Civil Procedure section 1021.5.

11 **FACTUAL BACKGROUND**

12 23. The Project proposes to widen I-80 and US-50 through a 20.8-mile-long corridor
13 in Solano, Yolo, and Sacramento counties by adding a high-occupancy toll lane in each direction.
14 The Project also proposes to add a managed lane direct connector, which would directly connect
15 the newly added lanes on I-80 and US-80 by bridging over US-50 at the I-80/US-50 interchange.

16 24. The Project footprint goes through the Yolo Bypass Wildlife Area, the
17 Sacramento River, and Putah Creek. California Department of Fish and Wildlife has designated
18 the Project area as having the highest ecoregion biodiversity ranking. Wildlife movement and
19 habitat connectivity are critical to protect this existing biodiversity. The Project also bisects a
20 Globally Important Bird Area, which are critical for migratory birds to find food, shelter, and
21 nesting habitat.

22 25. The Project will disproportionately harm already overburdened communities.
23 Nearly 40 percent of the Project's neighboring residents live in environmental justice

1 communities, as defined by the EIR. These communities include census tracts in West
2 Sacramento that have some of the highest environmental justice risk scores—a metric that
3 measures pollution burdens, socioeconomic stressors, and health conditions—in the state. (See
4 Cal. Off. of Env’t Health Hazard Assessment, *CalEnviroScreen 4.0*,
5 <<https://tinyurl.com/4vuhjcyr>> [as of May 28, 2024].) Because residents in these communities
6 are less likely to use a personal vehicle than others, they will have less access to the Project’s
7 purported benefits.

8 26. On November 13, 2023, Caltrans issued the Draft Environmental Impact Report
9 (“DEIR”) for the Project. The original 45-day review period for the DEIR ran through the
10 Thanksgiving and winter holiday seasons. Caltrans took almost a month to deliver hard copies of
11 the DEIR to local libraries for public review. Numerous technical studies were not posted online
12 and had to be requested. Caltrans extended the review period twice, first to January 4, 2024, and
13 again to January 12, 2024.

14 27. Petitioners/Plaintiffs each submitted written comments to Caltrans on the DEIR
15 raising the issues outlined in this Petition and Complaint. Numerous other individuals,
16 organizations, and agencies also submitted comments pointing out inadequacies in the CEQA
17 review.

18 28. A major issue with the DEIR was that it did not capture the full scope of the
19 Project. Before approving this Project, Caltrans separately approved the Yolo I-80 Pavement
20 Rehab Project. Although it was billed as a pavement rehabilitation project—and used funding
21 that could not legally be spent for lane-adding construction—the Yolo I-80 Pavement Rehab
22 Project was in fact undertaken to prepare the roadway for this Project’s lane additions. The Yolo
23 I-80 Pavement Rehab Project used construction techniques that are usually used for permanent

1 lane additions. Caltrans' own guidelines state that such construction techniques are unnecessary
2 for temporary rehabilitation work.

3 29. Caltrans' traffic modelling was deeply flawed. Caltrans' model projected that if
4 the Project was not built, traffic would become unrealistically congested. Because the Project
5 was being compared to this inflated baseline, the Project appeared to greatly improve congestion.
6 The Project's effects on congestion, if any, would have appeared smaller if Caltrans had used
7 modeling that produced a more realistic picture of baseline traffic conditions.

8 30. Caltrans relied on its flawed baseline traffic modeling when assessing the
9 Project's impacts on air pollution, greenhouse gas emission, and energy. As a result, Caltrans'
10 analyses of these impacts were flawed.

11 31. The DEIR omitted reasonable alternatives, including an alternative with more
12 than one tolled lane in each direction. To reduce greenhouse gas emissions, California
13 Government Code section 65080 requires regional planning agencies to create regional
14 transportation plans. The applicable regional transportation plan for the Sacramento area
15 specifies that the Project will have two tolled lanes in each direction. This would be
16 accomplished by converting an existing lane to a tolled lane and adding another tolled lane.
17 Caltrans did not even analyze this alternative configuration, however, despite claiming that the
18 Project was consistent with this plan. More tolled lanes would allow for greater congestion relief,
19 bring in more toll revenue to fund mitigation for the Project's effects, and be more in line with
20 California's statutory carbon-reduction goals.

21 32. Furthermore, Caltrans claimed that the Project would be consistent with the
22 regional transportation plan in order to conclude that the Project would not cause significant
23 energy, greenhouse gas emission, or climate change impacts. As noted above in paragraph 31,

1 the Project is inconsistent with the regional transportation plan.

2 33. Caltrans allocated part of the Project's total budget for mitigation, but Caltrans'
3 allocation was not nearly enough to mitigate the Project's significant environmental impacts.
4 Despite admitting that the Project would lead to significant transportation impacts, Caltrans
5 proposed to mitigate only about half of that acknowledged impact and rejected many feasible
6 mitigation measures because they would be too expensive under Caltrans' own arbitrary
7 mitigation budget.

8 34. On January 12, 2024, Petitioner/Plaintiff NRDC submitted a letter to Caltrans
9 describing various shortcomings in the DEIR, including those shortcomings identified in
10 paragraphs 28–33, above. Caltrans' response to NRDC's comment letter, to the extent it was
11 responsive at all, summarily rejected NRDC's analyses and concerns.

12 35. Also on January 12, 2024, Petitioner/Plaintiff PCL submitted a letter identifying
13 the DEIR's flaws, including those identified in paragraphs 28–33, above. Caltrans' response to
14 PCL's comment letter, to the extent it was responsive at all, summarily rejected PCL's analyses
15 and concerns.

16 36. On January 10, 2024, the California Air Resources Board ("CARB") submitted a
17 letter identifying many of the deficiencies in the DEIR that are the subject of this Petition and
18 Complaint. CARB outlined various errors in Caltrans' traffic modelling and how these errors
19 impacted other analyses in the DEIR. CARB's comment also pointed out the DEIR's inadequate
20 mitigation. Caltrans' response to CARB's comment letter, to the extent it was responsive at all,
21 summarily rejected CARB's analyses.

22 37. On January 12, 2024, the California Department of Fish and Wildlife ("CDFW")
23 sent a letter to Caltrans detailing some significant adverse impacts of the Project on habitats and

1 wildlife, including impacts to bats, purple martins, Swainson’s hawks, tricolored blackbirds, and
2 valley oak woodlands. The letter also noted that bats were already experiencing abnormal
3 changes in behavior, which could be due to the construction associated with the Yolo I-80
4 Pavement Rehab Project. The letter further warned that night lighting associated with the Project
5 could disrupt the behavioral patterns of songbirds, marsh-birds, migratory birds, salmonids, and
6 other wildlife. CDFW offered detailed recommendations on how to address potential impacts of
7 the Project through mitigation measures. Caltrans’ response to CDFW’s comment letter, to the
8 extent it was responsive at all, summarily rejected the vast majority of CDFW’s analysis and
9 recommendations, often with a conclusory and nonresponsive statement that “Caltrans deems”
10 the analysis and mitigation measures in the EIR to already be adequate.

11 38. On January 11, 2024, Petitioner/Plaintiff Center for Biological Diversity
12 submitted a letter to Caltrans describing how the DEIR did not adequately analyze or mitigate
13 the Project’s impacts to special status species, sensitive habitats, and wildlife movement, among
14 other topics. The letter detailed how the DEIR did not adequately describe baseline conditions
15 such as the connectivity value of the area for special-status species, nor adequately disclose the
16 connectivity impacts of the Project. The Center’s letter described how the culverts planned as
17 part of the Project could be designed in a manner to facilitate wildlife movement and existing
18 culverts could be retroverted for the same purpose. Caltrans’ response to the Center’s letter, to
19 the extent it was responsive at all, summarily rejected the vast majority of the Center’s analysis
20 and recommendations.

21 39. On April 30, 2024, Caltrans certified the EIR without rectifying the inadequacies
22 of the DEIR or adequately addressing the comments to the DEIR. Caltrans filed a Notice of
23 Determination for the Project on May 1, 2024.

1 **CEQA LEGAL BACKGROUND**

2 40. CEQA (Pub. Resources. Code § 21000 *et seq.*) is a comprehensive statute
3 established to “[e]nsure that the long-term protection of the environment . . . shall be the guiding
4 criterion in public decisions.” (Pub. Resources Code. § 21001, subd. (d).) In enacting CEQA, the
5 Legislature declared its intention that all governmental agencies that “regulate activities . . .
6 which are found to affect the quality of the environment” do so in such a way “that major
7 consideration is given to preventing environmental damage.” (*Id.* at § 21000, subd. (g).)

8 41. To accomplish this goal, CEQA requires agencies to prepare an EIR for every
9 project that may have significant environmental effects. (CEQA Guidelines, § 15002, subd.
10 (f)(1).) The purpose of an EIR is not only to inform the public and decisionmakers about the
11 potential significant environmental effects of proposed activities, but also to “[i]dentify ways that
12 environmental damage can be avoided or significantly reduced.” (*Id.* at § 15002, subd. (a)(2).)

13 42. CEQA’s mandate is not merely procedural or informational: CEQA requires
14 public agencies, whenever feasible, to avoid or significantly reduce environmental effects by
15 implementing project alternatives and/or mitigation measures. (See Pub. Resources Code
16 § 21001, subd. (g); CEQA Guidelines, § 15002, subd. (a)(3); *Laurel Heights Improvements Ass’n*
17 *of S.F., Inc. v. Regents of Univ. of Cal.* (1988), 47 Cal. 3d 376, 401.)

18 **FIRST CAUSE OF ACTION**

19 **(Pub. Resources Code, §§ 21168, 21168.5)**

20 **Violation of CEQA – Failure to Adequately Disclose and Analyze the Project’s Effects**

21 43. Petitioners/Plaintiffs incorporate by reference all preceding allegations.

22 44. CEQA requires agencies to consider “the whole of an action” in an EIR. (CEQA
23 Guidelines, § 15378, subd. (a).) The “whole” project that must be considered in an EIR includes

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1 any “activity directly undertaken by any public agency including but not limited to public works
2 construction and related activities clearing or grading of land[] [or] improvements to existing
3 public structures.” (*Id.* at § 15378, subd. (a)(1).)

4 45. “CEQA forbids ‘piecemeal’ review of the significant environmental impacts of a
5 project.” (*Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs.* (2001), 91 Cal.App.4th
6 1344, 1358.)

7 46. The Yolo I-80 Pavement Rehab Project was a preliminary step in and a part of the
8 Project. Therefore, instead of conducting separate environmental reviews, Caltrans should have
9 analyzed the effects of both the Project and the Yolo I-80 Pavement Rehab Project in a single
10 EIR.

11 47. Because the EIR did not adequately disclose the true scope of the Project and did
12 not address the effects of the Yolo I-80 Pavement Rehab Project, the EIR did not adequately
13 analyze and disclose the Project’s significant environmental impacts. By certifying the EIR,
14 Caltrans failed to proceed in the manner required by CEQA, thus committing a prejudicial abuse
15 of discretion.

16 **SECOND CAUSE OF ACTION**

17 **(Pub. Resources Code, §§ 21168, 21168.5)**

18 **Violation of CEQA – Failure to Define the Proper Baseline**

19 48. Petitioners/Plaintiffs incorporate by reference all preceding allegations.

20 49. The heart of any EIR is the selection of an appropriate baseline as the point of
21 departure when measuring the significance of a project’s impacts. (See CEQA Guidelines
22 § 15125, subd. (a).) If the lead agency chooses to use projected future conditions as the baseline
23 for analysis, this baseline must be “supported by reliable projections based on substantial

evidence in the record.” (*Id.* at § 15125, subds. (a)(1), (a)(2).)

50. For its traffic analysis baseline, Caltrans used a model that made conditions without the Project seem unrealistically congested and therefore the Project’s environmental effects mild in comparison. Caltrans admitted these problems in the DEIR but continued to use the model.

51. Because Caltrans selected a baseline that exaggerates congestion, the EIR fails at its core task: comparing the environmental impacts as they would have occurred with and without the Project. That failure in turn deprived “the public and decision makers the most accurate picture practically possible of the project’s likely impacts.” (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 449.) By certifying the EIR without an adequate baseline, Caltrans failed to proceed in the manner required by CEQA, thus committing a prejudicial abuse of discretion.

THIRD CAUSE OF ACTION

(Pub. Resources Code, §§ 21168, 21168.5)

Violation of CEQA – Failure to Consider a Reasonable Range of Alternatives

52. Petitioners/Plaintiffs incorporate by reference all preceding allegations.

53. CEQA requires agencies to consider a reasonable range of alternatives. (CEQA Guidelines, § 15126.6, subd. (a).) An agency’s decision to reject an alternative as infeasible must be supported by substantial record evidence. (See, e.g., *Cal. Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 987.)

54. Caltrans did not consider an alternative with more than one tolled lane in each direction, despite the regional transportation plan specifying such a configuration. It was “manifestly unreasonable” to exclude this alternative. (*Federation of Hillside and Canyon Assns.*

1 *v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1265.)

2 55. The failure to include reasonable and feasible alternatives like a multiple tolled
3 lane option prevented the EIR from analyzing a reasonable range of alternatives. By certifying
4 the EIR without considering a reasonable range of alternatives, Caltrans failed to proceed in the
5 manner required by CEQA, thus committing a prejudicial abuse of discretion.

6 **FOURTH CAUSE OF ACTION**

7 **(Pub. Resources Code, §§ 21168, 21168.5)**

8 **Violation of CEQA – Failure to Adequately Disclose and Analyze the Project’s Effects**

9 56. Petitioners/Plaintiffs incorporate by reference all preceding allegations.

10 57. CEQA requires that agencies support their decisions with substantial evidence.
11 (Pub. Resources Code § 21168.)

12 58. Several times in the EIR, Caltrans claimed that the Project would not have
13 significant environmental impacts because the Project was consistent with the regional
14 transportation plan. Caltrans used this reasoning for the energy, greenhouse gas emissions, and
15 climate change analyses. However, the regional transportation plan specifies that the Project will
16 be built with two tolled lanes in each direction, not just one.

17 59. Because Caltrans erroneously claimed consistency with the regional
18 transportation plan, its analysis of the Project’s energy, greenhouse gas emissions, and climate
19 change impacts was not supported by substantial evidence. By certifying the EIR, Caltrans failed
20 to proceed in the manner required by CEQA, thus committing a prejudicial abuse of discretion.

21 **FIFTH CAUSE OF ACTION**

22 **(Pub. Resources, Code §§ 21002.1, 21081)**

23 **Violation of CEQA – Failure to Require Feasible Mitigation Measures**

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1 60. Petitioners/Plaintiffs incorporate by reference all preceding allegations.

2 61. CEQA requires agencies to mitigate significant environmental impacts unless
3 they find that further mitigation is infeasible and that specific overriding considerations outweigh
4 the remaining significant environmental impacts. (See Pub. Resources Code § 21081.) An
5 agency's finding that a mitigation measure is infeasible must be supported by substantial record
6 evidence. (See, e.g., *Uphold Our Heritage v. Town of Woodside* (2007), 147 Cal. App. 4th 587,
7 598-99.)

8 62. Caltrans proposes to mitigate only about half of the Project's transportation
9 impacts. Caltrans allocated at most 14–15% of the Project's total budget for mitigation measures.
10 Caltrans rejected many mitigation measures for reasons stemming from its inadequate mitigation
11 budget. Caltrans' conclusion that further mitigation was not feasible is not supported by
12 substantial evidence because, among other reasons, Caltrans failed to consider alternative
13 funding sources or allocating additional funds for mitigation.

14 63. Caltrans has not supported its conclusion that mitigation measures are infeasible
15 with substantial evidence. Therefore, it should have required these mitigation measures as part of
16 the EIR. By certifying the EIR without requiring feasible mitigation measures, Caltrans failed to
17 proceed in the manner required by CEQA, thus committing a prejudicial abuse of discretion.

18 **SIXTH CAUSE OF ACTION**

19 **(Pub. Resources Code, §§ 21002.1, 21081, 21100)**

20 **Violation of CEQA – Failure to Disclose and Mitigate Impacts to Biological Resources**

21 64. Petitioners/Plaintiffs incorporate by reference all preceding allegations.

22 65. The EIR fails to adequately disclose, analyze, and/or mitigate the Project's
23 significant direct and cumulative impacts to biological resources, including numerous animal

1 species, plant species, and habitats affected by the Project. Those species include, but are not
2 limited to: purple martin, Swainson's hawk, tricolored blackbird, least Bell's vireo, California
3 black rail, greater sandhill crane, giant garter snake, North American green sturgeon, delta smelt,
4 Chinook salmon, and steelhead. The EIR's biological resources analysis is inadequate because,
5 *inter alia*, the EIR:

- 6 a. fails to accurately describe the baseline of existing environmental
7 conditions of the biological resources on the Project site;
- 8 b. fails to adequately disclose, analyze, and/or mitigate the Project's direct
9 and indirect significant impacts to plant and animal species (including
10 special status species), including from noise, lighting, construction, and
11 operation of the Project;
- 12 c. fails to adequately disclose, analyze, and/or mitigate the Project's
13 significant impacts on habitats and features such as the Yolo Bypass
14 Wildlife Area, Sacramento River, Putah Creek, valley oak woodlands,
15 valley riparian forests, and wetlands;
- 16 d. fails to adequately disclose, analyze, and/or mitigate the direct, indirect,
17 and cumulative impacts the Project and associated traffic generated by the
18 Project will have on hydrology and water quality, including on special-
19 status species;
- 20 e. fails to adequately disclose, analyze, and/or mitigate the Project's
21 inconsistency with applicable land use plans, including the Yolo Habitat
22 Conservation Plan/Natural Communities Conservation Plan, Natomas
23 Basin Habitat Conservation Plan, and the Sacramento Area Council of

Governments 2020 Metropolitan Transportation Plan/Sustainable
Communities Strategy; and

- f. relies on mitigation measures that are vague, ineffective, deferred, and/or
unenforceable.

SEVENTH CAUSE OF ACTION

(Pub. Resources Code, § 21091)

Violation of CEQA – Inadequate Response to Comments

66. Petitioners/Plaintiffs incorporate by reference all preceding allegations.

67. CEQA requires that a lead agency evaluate and respond to all environmental
comments on the DEIR that it receives during the public review period. (Pub. Resources Code
§ 21091, subd. (d); CEQA Guidelines, § 15088.) The responses must describe the disposition of
the issues raised and must specifically explain reasons for rejecting suggestions and for
proceeding without incorporating the suggestions. (Pub. Resources Code § 21091, subd. (d);
CEQA Guidelines, § 15088.)

68. The EIR's responses to comments fail to meet CEQA's requirements in that they
fail to adequately dispose of all the issues raised, fail to provide specific rationale for rejecting
suggested Project changes, including the consideration or adoption of feasible mitigation
measures or alternatives, or fail to address the comments. The EIR's responses to comments,
including Petitioners/Plaintiffs', fail to satisfy the requirements of law.

69. CEQA imposes heightened procedural requirements when a lead agency disagrees
with the opinions of expert agencies. (*Banning Ranch Conservancy v. City of Newport Beach*
(2017) 2 Cal.5th 918, 940.) The EIR must lay out any competing views put forward by the lead
agency and other interested agencies, summarize the main points of disagreement, and then

1 provide a good faith, reasoned analysis in response. The EIR's responses to comments, including
2 to comments by CDFW and CARB, do not meet this standard. By certifying the EIR without
3 abiding by these requirements, Caltrans failed to proceed in the manner required by CEQA, thus
4 committing a prejudicial abuse of discretion.

5 **EIGHTH CAUSE OF ACTION**

6 **(Pub. Resources Code, § 21081)**

7 **Violation of CEQA – Inadequate Findings and Statement of Overriding Considerations**

8 70. Petitioners/Plaintiffs incorporate by reference all preceding allegations.

9 71. Caltrans' Findings of Fact and Statement of Overriding Considerations violate the
10 requirements of the CEQA Guidelines. Caltrans' findings fail to identify the changes or
11 alterations that are required to "avoid or substantially lessen" the Project's significant
12 environmental effects (CEQA Guidelines, § 15091, subd. (a)(1)), and do not provide adequate
13 reasoning or the analytic route from facts to conclusions, as required by law. The purported
14 benefits of the Project cited in the Statement of Overriding Considerations do not outweigh the
15 substantial costs of the Project to public health and the environment. Respondents' Findings and
16 Statement of Overriding Considerations are not supported by substantial evidence in the record.
17 (CEQA Guidelines, § 15091, subd. (b).)

18 72. By certifying the EIR without abiding by these requirements, Caltrans failed to
19 proceed in the manner required by CEQA, thus committing a prejudicial abuse of discretion.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Petitioners/Plaintiffs respectfully request relief as follows:

23 A. For a writ of mandate directing Caltrans to set aside and vacate their certification

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

1 of the May 1, 2024 EIR and approval of the Project, and refrain from granting any further
2 approvals for the Project unless and until Respondent/Defendant fully complies with the
3 requirements of CEQA; and

4 B. For declaratory judgment that Respondent/Defendant violated CEQA in certifying
5 the EIR and approving the Project; and

6 C. For temporary, preliminary, and permanent injunctive relief to protect
7 Petitioners/Plaintiffs' rights under CEQA; and

8 D. For fees and costs incurred in relation to the prosecution of this action, including
9 reasonable attorney's fees as authorized by Code of Civil Procedure section 1021.5 and any other
10 applicable law; and

11 E. For such further relief that this Court deems just and proper.

12
13 Date: 05/29/2024

Respectfully submitted,

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17
18 JOHN P. ROSE, CSBN 285819
jrose@biologicaldiversity.org
ARUNA PRABHALA, CSBN 278865
19 aprabhala@biologicaldiversity.org
CENTER FOR BIOLOGICAL DIVERSITY
20 1212 Broadway, Suite 800
Oakland, CA 94612
21 Telephone: (510) 844-7100
22 Facsimile: (510) 844-7150

23 *Attorneys for Petitioner/Plaintiff*
Center for Biological Diversity

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

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Alexander Hall, CSBN 354050
ahall@nrdc.org
Michael E. Wall, CSBN 170238
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NATURAL RESOURCES DEFENSE
COUNCIL
111 Sutter St, Fl 21
San Francisco, CA 94104-4540
Telephone: (415) 875 8262
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Attorneys for Petitioners/Plaintiffs
Natural Resources Defense Council, Inc.,
and Planning and Conservation League

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

Executed on May 29, 2024 at Santa Monica, California.

Carter Rubin

Natural Resources Defense Council, Inc.

EXHIBIT A



May 29, 2024

Via U.S mail and electronic mail to:

Tony Tavares, Director
California Department of Transportation
P.O. Box 942873, Sacramento, CA 94273-0001

Masum A Patwary, Environmental Scientist
California Department of Transportation, District 3
703 B Street, Marysville, CA 95901
Yolo80Corridor@dot.ca.gov

**Re: Notice of Commencement of CEQA Litigation Challenging the
Certification of the Yolo 80 Corridor Improvements Project (SCH
#2021060117) Environmental Impact Report**

Dear Tony Tavares and Masum Patwary:

This letter is to notify you that the Center for Biological Diversity, Natural Resources Defense Council, Inc., and the Planning and Conservation League will file suit against the California Department of Transportation (Caltrans) for failure to comply with the requirements of the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq., and the CEQA Guidelines, California Code of Regulations section 15000 et seq., in certifying the Yolo 80 Corridor Improvements Project Environmental Impact Report and approving the Project. This notice is given pursuant to Public Resources Code section 21167.5.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexander Hall", is positioned above the typed name.

Alexander Hall, Litigation Fellow
Natural Resources Defense Council
ahall@nrdc.org

NATURAL RESOURCES DEFENSE COUNCIL

111 SUTTER STREET | SAN FRANCISCO, CA | 94104 | T 415.875.6100 | F 415.875.6161 | NRDC.ORG

PROOF OF SERVICE

I, Alexander Hall, declare that I am over the age of 18 and not a party to this action. I am employed in the County of San Francisco, State of California. My business address is: 111 Sutter St., Fl. 21, San Francisco, California, which is located in the county where the mailing described below occurred. On May 29, 2024, I served true copies of the following document(s) described as:

- Notice of Commencement of CEQA Litigation Challenging the Certification of the Yolo 80 Corridor Improvements Project (SCH #2021060117) Environmental Impact Report
- Notice re: Preparation of Record of Administrative Proceedings

The documents were served by United States mail. I enclosed the documents in a sealed envelope addressed as set forth below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

- Tony Tavares, Director
California Department of Transportation
P.O. Box 942873, Sacramento, CA 94273-0001
- Masum A Patwary, Environmental Scientist
California Department of Transportation, District 3
703 B Street, Marysville, CA 95901

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 29, 2024, at San Francisco, California.

Alexander Hall

Printed Name



Signature

EXHIBIT B



May 29, 2024

Via U.S mail to:

Rob Bonta
Attorney General of the State of California
1300 "I" Street
Sacramento, CA 95814-2919

**Re: Notice of Commencement of Center for Biological Diversity,
Natural Resources Defense Council, Inc., and Planning and
Conservation League v. California Department of Transportation**

Dear Attorney General Rob Bonta:

Enclosed please find a copy of the Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief in the above-entitled action. The Petition is provided pursuant to Public Resources Code section 21167.7 and Code of Civil Procedure section 388.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexander Hall", is written over a light gray circular background.

Alexander Hall, Litigation Fellow
Natural Resources Defense Council
ahall@nrdc.org

NATURAL RESOURCES DEFENSE COUNCIL

111 SUTTER STREET | SAN FRANCISCO, CA | 94104 | T 415.875.6100 | F 415.875.6161 | NRDC.ORG

PROOF OF SERVICE

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- Notice of Commencement of Center for Biological Diversity, Natural Resources Defense Council, Inc., and Planning and Conservation League v. California Department of Transportation
- Verified Petition for Writ of Mandate; Complaint for Declaratory and Injunctive Relief

The documents were served by United States mail. I enclosed the documents in a sealed envelope addressed as set forth below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

- Rob Bonta
Attorney General of the State of California
1300 "I" Street
Sacramento, CA 95814-2919

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 29, 2024, at San Francisco, California.



Alexander Hall

Printed Name

Signature

EXHIBIT C

1 JOHN P. ROSE, CSBN 285819
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2 ARUNA PRABHALA, CSBN 278865
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6 *Attorneys for Petitioner/Plaintiff*
Center for Biological Diversity

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8 ahall@nrdc.org
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NATURAL RESOURCES DEFENSE COUNCIL
10 111 Sutter St, Fl 21
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11 Telephone: (415) 875 8262
Facsimile: (415) 795 4799

12 *Attorneys for Petitioners/Plaintiffs*
13 Natural Resources Defense Council, Inc., and
Planning and Conservation League

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF ALAMEDA**
16

17 CENTER FOR BIOLOGICAL DIVERSITY;
NATURAL RESOURCES DEFENSE
18 COUNCIL, INC.; and PLANNING AND
CONSERVATION LEAGUE, non-profit
19 corporations,

20 Petitioners/Plaintiffs,

21 v.

22 CALIFORNIA DEPARTMENT OF
TRANSPORTATION, a public entity; and
23 DOES 1 through 20, inclusive,

Respondents/Defendants.

Case No.:

NOTICE RE: PREPARATION OF RECORD
OF ADMINISTRATIVE PROCEEDINGS

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2 TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION:

3 PLEASE TAKE NOTICE that, pursuant to Public Resources Code section 21167.6,
4 Petitioners/Plaintiffs Center for Biological Diversity, Natural Resources Defense Council, Inc.,
5 and Planning and Conservation League have elected to prepare the record of
6 Respondent/Defendant California Department of Transportation's proceedings relating to this
7 action.

8
9 Date: 05/29/2024

Respectfully submitted,

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12
13 JOHN P. ROSE, CSBN 285819
jrose@biologicaldiversity.org
14 ARUNA PRABHALA, CSBN 278865
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20 

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22 Alexander Hall, CSBN 354050
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23 Michael E. Wall, CSBN 170238
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NOTICE RE: PREPARATION OF RECORD OF ADMINISTRATIVE PROCEEDINGS

1 NATURAL RESOURCES DEFENSE
2 COUNCIL

3 111 Sutter St, Fl 21

4 San Francisco, CA 94104-4540

5 Telephone: (415) 875 8262

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7 *Attorneys for Petitioners/Plaintiffs*

8 Natural Resources Defense Council, Inc.,
9 and Planning and Conservation League

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California Department of Transportation
P.O. Box 942873, Sacramento, CA 94273-0001
- Masum A Patwary, Environmental Scientist
California Department of Transportation, District 3
703 B Street, Marysville, CA 95901

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 29, 2024, at San Francisco, California.

Alexander Hall

Printed Name



Signature