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7 SAVE THE FIELD

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO

10 SAVE THE FIELD, a California nonprofit public
benefit corporation,
11
12 Petitioner,
13 v.
14 DEL MAR UNION SCHOOL DISTRICT, and
DOES 1 through 10, inclusive,
15 Respondent.

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
11/06/2020 at 08:38:00 PM
Clerk of the Superior Court
By Adriana Ive Anzalone, Deputy Clerk

Case No. 37-2020-00020207-CU-TT-CTL

**REPLY TO RESPONDENT DEL
MAR UNION SCHOOL DISTRICT'S
BRIEF IN OPPOSITION TO SAVE
THE FIELD'S PETITION FOR WRIT
OF MANDATE**

Date: November 18, 2020
Time: 1:30 p.m.
Dept: C-73
Judge: Hon. Joel R. Wohlfeil

Complaint Filed: June 12, 2020

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1 **I. INTRODUCTION**

2 The District plans to completely demolish and build a much larger school (a 66,823 ft² new
3 campus) to replace its current school, which lies atop a reserve bluff in the sensitive Coastal Zone
4 immediately adjacent to the environmentally sensitive and regionally important Torrey Pines State
5 Reserve Extension without performing an environmental impact report. Preliminarily, it must be said
6 that it is nothing short of remarkable that the District relied on an MND (as opposed to preparing an
7 EIR) under these factual circumstances. One would be hard pressed to find a private developer who
8 would do such a thing. This is true since, in order to rely on an Initial Study/Mitigated Negative
9 Declaration (“IS/MND”), the Project would have to have no ***potentially*** significant impacts on the
10 environment (Pub. Resources Code, § 21064.5.) As the facts set forth in the Administrative Record
11 shows, including the expert engineering report prepared by RK Engineering, that could never be the
12 case for this type of large-scale construction in this sensitive location. The critical difference between
13 a private development and this project is that the District acted as both the applicant ***and*** the lead
14 agency, reviewing and approving its own environmental documents. As a consequence, there was no
15 independent oversight of the District’s actions. Given these facts and as a practical matter, the RK
16 Engineering Report is particularly germane in this case.

17 Here, RK Engineering opined that the Project may have significant impacts to noise,
18 transportation and air quality – any one of which necessitates the preparation of an EIR. There are two
19 competing experts in this case. As such, CEQA makes clear that in that event, an EIR must be prepared.
20 (See Guidelines, § 15064, subd. (g).) While the District goes to great lengths to attack the opinions of
21 Plaintiff’s expert, doing so only reveals the obvious – we have two experts who disagree on the impacts
22 occasioned by this Project. Indeed, to the extent there is any conflict in the evidence, neither the Court
23 nor the District should weigh this conflict; instead, an EIR must be prepared. (*Citizens for Responsible*
24 *& Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1340.)

25 The District also contends that the Court should ignore the RK Engineering expert report
26 because the expert did not visit the site. However, as our Courts make clear, whether or not an expert
27 visits the site is irrelevant as long as her or she has an adequate background and knowledge base to
28 support their opinion about the significant effects of the project on the site’s resources. (*Save the*

1 *Agoura Cornell Knoll v. City of Agoura Hills* (2020) 46 Cal.App.5th 665, 689.) Here, the District
2 has not (nor could it) attack the credentials of Plaintiff’s expert and his knowledge base employed to
3 opine on the impacts from this Project.

4 Given these facts and the corresponding law, the Court can stop here and need not undertake
5 an analysis of the balance of Plaintiff’s contentions in this case (or Defendant’s opposition on these
6 topics), since an EIR is required and as a consequence, a writ of mandate should issue requiring the
7 District to comply with CEQA.

8 However, as will also be discussed herein, there are remaining multiple, independent reasons
9 the Court should require an EIR. For one, as Respondent admits, it excluded the Coastal Zone
10 overlay as part of its project description. This is an egregious omission under CEQA. Respondent
11 contends that this omission was “harmless”. However, the law provides otherwise. Evaluating the
12 significance of a project’s impact on the environment depends directly on the project’s setting—
13 “[f]or example, an activity which may not be significant in an urban area may be significant in a rural
14 area.” (Guidelines, § 15064, subd. (b)(1).) Accordingly, omitting the fact that the Project is located
15 in the sensitive coastal zone provides an incorrect baseline from which to measure the Project’s
16 environmental impacts rendering the IS/MND inadequate as a matter of law.

17 There is also substantial evidence in the record that shows that the Project may also have
18 significant impacts related to wildfire, land use and planning, recreation, and biological resources –
19 each of which necessitates the preparation of an EIR.

20 **II. ARGUMENT**

21 **A. RK ENGINEERING’S CONCLUSIONS PROVIDE SUBSTANTIAL EVIDENCE** 22 **REQUIRING AN EIR**

23 Respondent summarily dismiss RK Engineering’s expert opinion contending that the
24 opinions are not based on independent fact or reasonable assumptions supported by fact, since RK
25 Engineering “does not claim it conducted any independent analysis regarding the Project or visited
26 the School.” (Oppo. at 6:14-22.) Notably, neither of these are requirements under the law.

27 Instead, the law provides that “‘expert opinion if supported by facts, even if not based on specific
28 observations as to the site under review’ may qualify as substantial evidence supporting a fair argument.”

1 (*Save the Agoura Cornell Knoll, supra*, 46 Cal.App.5th at 689 [quoting *Pocket Protectors v. City of*
2 *Sacramento* (2004) 124 Cal.App.4th 903, 928].) In *Save the Agoura Cornell Knoll*, the respondent argued
3 that the expert’s opinions were mere “speculation and unsubstantiated opinion,” which was rejected by
4 the court. (*Ibid.*) The court recognized that the expert “set forth his qualifications as an expert” and his
5 opinion about the project’s impacts “were based on his review of the 2011 study of the site, the 2014 peer
6 review, and the MND.” (*Ibid.*) The court concluded that “[r]egardless of whether [the expert] ever
7 personally inspected the site, he had an adequate background and knowledge base to support his opinion
8 about the significant effects of the project on the site’s” resources. (*Ibid.*)

9 Similarly, here RK Engineering’s report set forth the qualifications of all of its experts
10 involved in reviewing the project (see Vol. VI, Tab 1, AR03908-3929) and based its conclusions on
11 the facts obtained from its review of the MND. (See *id.* at AR03727-3735.) Indeed, RK
12 Engineering’s report included page number references to each issue identified in the MND. (*Ibid.*)
13 Using the underlying facts as presented in the MND, RK Engineering formulated its opinions based
14 on those facts. Any disagreement between the expert’s conclusions is substantial evidence requiring
15 an EIR. (Guidelines, §§ 15384, 15064, subd. (g).)

16 Here, there is no dispute as to credibility of factual questions requiring deference to the District.
17 (See *Citizens for Responsible & Open Government, supra*, 160 Cal.App.4th at 1340 [noting that while a
18 court will give deference to an agency’s weighing of credibility questions involving “*disputed* factual
19 questions going to *credibility*” (emphasis in original), “[d]eference is not required when there is a
20 weighing of some substantial evidence against other substantial evidence”].) Here, RK Engineering
21 presented substantial, conflicting evidence requiring an EIR based on the facts presented in the MND.
22 Indeed, “[u]nder such circumstances, ‘neither the lead agency or a court may “weigh” conflicting
23 substantial evidence to determine whether an EIR must be prepared in the first instance.’” (*Ibid.*)

24 **1. RK Engineering Appropriately Concluded that Additional Studies are Required**

25 RK Engineering opined that the analysis in the MND is insufficient and additional studies are
26 required to complete the required impacts analysis; and thus, the Project may have a significant impact
27 on the environment. The District ostensibly claims that the “[l]ack of study is not evidence of a significant
28 impact.” (Oppo. at 6:21-22 [citing *Gentry v. City of Murietta* (1995) 36 Cal.App.4th 1359, 1379].)

1 However, the court in *Gentry* merely recognized that “[t]he lack of study is hardly evidence that there
2 will be a significant impact.” (*Id.* at 1379.) In other words, without more, pointing to the lack of study is
3 not sufficient for a petitioner to meet their burden of showing a fair argument exists.

4 In contrast, here RK Engineering opined that based on the facts presented in the MND (or lack
5 of facts/analysis presented), it can inferentially conclude that there are potentially significant impacts to
6 noise, transportation and air quality resulting from the District’s repeated lack of study. Indeed, such a
7 conclusion is appropriate when an agency fails to perform necessary environmental review:

8 The agency [will] not be allowed to hide behind its own failure to gather relevant data.
9 . . . CEQA places the burden of environmental investigation on government rather
10 than the public. If the local agency has failed to study an area of possible
11 environmental impact, a fair argument may be based on the limited facts in the record.
Deficiencies in the record may actually enlarge the scope of fair argument by lending
a logical plausibility to a wider range of inferences.

12 (*Gentry, supra*, 36 Cal.App.4th at 1378-1379; see also *City of Redlands v. County of San Bernardino*
13 (2002) 96 Cal.App.4th 398, 408.)

14 CEQA does not allow the District to avoid an EIR by failing to perform studies or analyses
15 which will show that the project may have a significant impact on the environment.

16 **B. SUBSTANTIAL EVIDENCE IN THE RECORD SHOWS THAT THE PROJECT MAY**
17 **HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT REQUIRING AN EIR**

18 Under CEQA, “[i]t is the function of an EIR, not a negative declaration, to resolve conflicting
19 claims, based on substantial evidence, as to the environmental effects of a project.” (*California*
20 *Native Plant Society v. County of El Dorado* (2009) 170 Cal.App.4th 1026, 1060-1061.) The
21 District’s Opposition illustrates the conflicting evidence at issue here must be resolved by an EIR.
22 The District improperly focuses “simply upon the evidence favoring [a MND] in disregard of other
23 relevant evidence supporting” the preparation of an EIR. (See *City of Carmel-By-The-Sea v. Bd. of*
24 *Supervisors* (1986) 183 Cal.App.3d 229, 253.) Critically, an agency’s determination to not perform
25 an EIR “can be upheld *only* when there is **no credible evidence to the contrary.**” (*Sierra Club v.*
26 *County of Sonoma* (1992) 6 Cal.App.4th 1307, 1318 [emphasis added].)

27 **1. The Project May Have a Significant Impact on Noise**

28 The District dismisses the substantial evidence in the record showing that the Project may

1 have a significant impact on noise.

2 First, despite Respondent’s contentions, RK Engineering has presented substantial evidence
3 that there is a potentially significant impact to construction related noise. Importantly, as RK
4 Engineering appropriately notes, construction activities are expected to occur less than 25 feet from
5 residential homes, despite the fact that the MND only measured Project-Related Construction Noise
6 Levels *330 feet* from residential homes. (Vol. VI, Tab 1, AR03729.) Respondent claims RK
7 Engineering’s opinions are not credible because they misrepresent the MND’s actual analysis.
8 Respondent, however, summarily claims that it was conducting a “worst-case” analysis and that its
9 determination that “the area around the center of construction activities best represents the potential
10 average construction-related noise levels at the various sensitive receptors.” (Oppo. at 9:18-19.) RK
11 Engineering disagreed, which is appropriate, especially given the fact that the majority of the
12 construction will not occur within the center of the site—instead, the majority of classrooms and
13 parking lot are to be constructed directly south of the sensitive receptors on Mira Montana Drive.
14 (*Id.* at AR00043.)

15 Respondent also argues that it appropriately relied on the City of San Diego’s CEQA thresholds
16 when determining whether there will be potentially significant noise impacts. Critically, however, as
17 Respondent recognizes, the City’s CEQA thresholds provide that “[t]emporary construction noise
18 which *exceeds 75 db (A) Leq* at a sensitive receptor would be considered significant. Construction
19 noise levels measured at or beyond the *property lines of any property zoned residential shall not*
20 *exceed an average sound level greater than 75-decibels (dB).*” (Oppo. at 11:22-27 [quoting Vol. IV,
21 Tab 1(b), AR02273] [emphasis added].) Critically, as RK Engineering recognized, the District failed
22 to consider whether construction noise levels—which occur within 25 feet of sensitive receptors, will
23 result in an average sound level of greater than 75 dB. Instead, the MND only considered noise levels
24 calculated 330 feet from these sensitive receptors (in the middle of the field where no significant
25 construction is expected to occur).

26 Second, Respondent improperly ignores the potentially significant impacts resulting from
27 operational noise. The District omitted any analysis of existing ambient noise level measurements and
28 summarily concluded that despite the expanded drop-off and pick-up area, “[t]raffic noise would not

1 significantly increase above existing conditions and impacts would be less than significant.” (See Vol
2 VI, Tab 1, AR03730.) The District attempts to dismiss this omission by claiming that the Project “is a
3 like-for-like development,” however this argument ignores the fundamental changes in the nature and
4 character of the project—and the significant expansion of a parking lot in front of nearby sensitive
5 receptors. (Compare Vol. I, Tab 5, AR00029 and AR00043.) As the District admits, the parking lot
6 will significantly increase the number of cars entering the campus, and will allow cars to circle and exit
7 the School. (See Oppo. at 4:6-11.) Thus, it is improper for the District to omit any analysis of these
8 potentially significant impacts and instead summarily conclude that there will be no impacts. (See *City*
9 *of Redlands, supra*, 96 Cal.App.4th at 408.)

10 **2. The Project May Have a Significant Impact on Transportation**

11 Respondent’s Opposition devotes a significant discussion to the substantial evidence submitted
12 by Petitioner showing that the Project *may* have a significant impact on transportation. Notably, RK
13 engineering noted that “the traffic impacts caused by the redistribution of project traffic needs **may**
14 **result in significant environmental effects** and further assessment and potentially additional mitigation
15 measures are needed to reduce the impacts to the residential communities around those areas.” (Vol. VI,
16 Tab 1, AR03731 [emphasis added].) Additionally, RK Engineering recognized that the IS/MND failed
17 to provide a Construction Traffic Impact Analysis and thus fails to analyze the “**[p]otentially significant**
18 **traffic impacts during construction,**” that the project traffic distribution needs to be revised, and that
19 the bus staging “**may be a potentially significant impact**” causing safety concerns for students. (*Id.* at
20 AR03733-03734 [emphasis added].) There is also substantial evidence in the record that the Project will
21 have a significant impact on traffic in the surrounding area.

22 Respondent claims that RK Engineering’s opinions on traffic distribution are unsubstantiated
23 because RK must show what “realistic” distributions might entail. The law does not support
24 Respondent’s contention. “CEQA places the burden of environmental investigation on government
25 rather than the public.” (See *Gentry, supra*, 36 Cal.App.4th at 1378-1379; see also *Stanislaus Audubon*
26 *Society, supra*, 33 Cal.App.4th at 152 [“respondents’ attempt to persuade us to consider only ‘raw
27 analytic data,’ and to require quantitative environmental studies definitively establishing the existence
28 of the claimed environmental impacts is unpersuasive”].) CEQA requires an EIR where there is a

1 disagreement among expert opinion as to the impacts on the environment, which is the case here.
2 (Guidelines, § 15064, subd. (g).)

3 Further, Respondent erroneously claims that Petitioner has not produced substantial evidence that
4 there may be an increase in traffic as a result of the new parking lot, as well as the de-facto drop-off/pick-
5 up area created on Mira Montana Drive. Respondent ignores the concerns raised regarding the new ADA
6 providing access to Mira Montana Drive by summarily claiming that Petitioner has failed to provide
7 factual support for the claims in the letter. Notably, however, “an agency may not refuse to consider
8 uncontradicted testimony based upon objective data.” (*Citizens Assn. for Sensible Development of Bishop*
9 *Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 173.) Respondent does not dispute the fact that Mira
10 Montana Drive reduces significantly from 35 feet to 20 feet (the minimum width of a fire lane). (Cal.
11 Fire Code, § 503.2.1.) Undoubtedly, providing a paved walkway directly connected to the parking lot
12 and new classrooms will significantly increase the use of the Mira Montana as a de facto drop-off/pick-
13 up area compared to the current configuration, which requires young students to walk across the fields
14 and walk on a dirt path. (Compare Vol. I, Tab 5, AR00029 and AR00043.) It does not take a traffic expert
15 to opine that a road as wide as a fire lane (designed to provide access to only 9 single-family homes) is
16 insufficient to support school traffic. (See *id.* at AR00029.) Respondent cannot ignore this evidence in an
17 attempt to avoid a traffic study and EIR.

18 **3. The Project May Have a Significant Impact on Air Quality**

19 In its efforts to stand on a deficient MND, Respondent again attempts to hide behind its
20 insufficient environmental studies which conceal the Project’s potentially significant impacts on the
21 environment. Respondent again attacks RK Engineering’s expert opinion, which states that adjacent
22 sensitive receptors are located within 25 feet of the project site, and thus, the IS/MND fails to
23 adequately analyze the potentially significant impacts to adjacent homes from adverse construction
24 emissions and fugitive dust. (Vol. VI, Tab 1, AR03728.) Again, the District is not permitted to hide
25 behind its failure to gather relevant data. (See *City of Redlands, supra*, 96 Cal.App.4th at 408.)

26 **4. The Project May Have a Significant Impact on Wildfire/Emergency Access**

27 Respondent failed to address the fact that the Project will have a potentially significant impact on
28 wildfire and emergency access and will exacerbate wildfire risks and will expose people to significant

1 risks as a result. (See Guidelines Appendix G, § XX.) Instead, the District attempts to distract from the
2 fact that it failed to perform any analysis relative to the risks of wildfire and the exacerbating impacts of
3 the new design. The District is required to “evaluate existing conditions in order to assess whether the
4 project could exacerbate hazards that are already present.” (*California Bldg. Industry Assn. v. Bay Area*
5 *Quality Management Dist.* (2015) 62 Cal.4th 369, 388.) Respondent claims that Petitioner “implausibly
6 claims that the existing campus . . . is less dangerous than the Project,” but the District’s analysis merely
7 claims that the Project will add a fire access lane, additional parking, and additional fire hydrants. Thus
8 surface-level analysis is insufficient to adequately address the Project’s risks to wildfire. The District is
9 not permitted to hide behind its own failure to gather relevant data—especially where it has not gathered
10 any data at all. (See *City of Redlands, supra*, 96 Cal.App.4th at 408.) Given the risks associated with
11 wildfire, projects in high fire severity areas are required to thoroughly analyze wildfire risks, which the
12 District must do. (See Pub. Resources Code, § 21083.01.)

13 **5. The Project May Have a Significant Impact on Land Use and Planning**

14 Despite the repeated assertions that the Project is a “like-for-like development,” the fact that
15 the District is reconstructing a school to replace the current 1950s structures in the same location does
16 not exempt it from analyzing impacts to land use and planning, particularly where the Project is located
17 in a coastal zone immediately adjacent to a sensitive open space. The District’s argument that the State
18 of California has occupied the field of school site locations does not mean that the District’s Project
19 may violate the City’s Local Coastal Program and the Torrey Pines Community Plan.¹ The District
20 claims that “only four of the eleven Key Policies of the Community Plan are relevant to the Project,”
21 completely ignoring the policies set forth in the Local Coastal Program (which is incorporated by
22 reference into the Community Plan). The District’s Opposition does not even mention the Local
23 Coastal Program and its requirement that all development adjacent to the Torrey Pines Reserve
24 Extension must provide setbacks “to prevent fire breaks from being construction on reserve property
25 or into off-site sensitive areas.” (Vol. V, Tab 1(g), AR03393.) Buildings will be constructed as close

26 _____
27 ¹ Respondent asks the Court to take judicial notice of its July 22, 2020 resolution rendering the City’s zoning ordinances
28 inapplicable to the District. This resolution is not included in the administrative record and was rendered after the approval
of the Project. As such, it is improper for the Court to grant Respondent’s request for judicial notice. (See *Porterville Citizens*
for Responsible Hillside Development v. City of Porterville (2007) 157 Cal.App.4th 885, 898.)

1 to two-feet from the Reserve, and the Project does not comply with this key policy. (Vol. VI, Tab 1,
2 AR03491.)

3 Further, Respondent does not comply with the fire safety setbacks required by the Public
4 Resources Code and Government Code, and its argument that Government Code section 51183
5 authorizes an exemption is unavailing. Section 51183 states that the local agency “may exempt” a
6 development from the 100-foot defensible space requirement—it is not mandatory and does not
7 guaranty an exemption for the District. (See Gov. Code, § 51183, subd. (a).) Notably, the IS/MND is
8 silent with respect to whether the City has exempted it from the setback requirements.

9 Respondent’s argument that the relocation of portions of the school within the 100-foot
10 setback is not a significant impact because “the Project will alleviate, not exacerbate the current
11 conditions” is unpersuasive. (See Oppo. at 24:22-26.) Indeed,

12 [F]or projects that may cause both beneficial and adverse significant impacts on the
13 environment, preparation of an EIR is required because the consideration of
14 feasible alternatives and mitigation measures might result in changes to the project
15 that decrease its adverse impacts on California’s environment. Consequently, the
16 argument that an EIR was unnecessary because the net overall effect of [the project]
was beneficial to the environment must fail, regardless of potential environmental
benefits, if substantial evidence shows a reasonable possibility of one or more
significant adverse environmental impacts.

17 (*County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1580 [emphasis
18 added].) Critically, the CEQA Guidelines state that a project may have a significant impact on the
19 environment where the project conflicts “with any applicable land use plan, policy, or regulation . . .
20 adopted for the purpose of mitigating an environmental effect.” (Guidelines Appendix G, § XI, subd.
21 (b) [emphasis added].) The Project conflicts with Government Code 51182, which is without question
22 adopted to mitigate environmental impacts. (See Gov. Code, § 51176.) There is no evidence that the
23 District is exempt from the setback, and the Project therefore may have a significant impact on the
24 environment based on this conflict thus requiring an EIR.

25 **6. The Project May Have a Significant Impact on Recreation**

26 Respondent fails to recognize that the Project may have a significant impact to the environment
27 if it would (a) increase the use of existing neighborhood parks or other facilities, or (b) require the
28 construction or expansion of recreational facilities which may have an adverse effect on the

1 environment. (Guidelines, Appendix G, § XVI.) Critically, the Project will reduce recreational space
2 by one acre (in a community with only 1.5 acres of usable park space (Vol. V, Tab 1(g), AR03364))
3 and will reduce one of the two baseball fields at the school. Respondent’s statements on recreational
4 use are inconsistent—the IS/MND states that the Project “would not require construction of offsite
5 recreational facilities,” (Vol. I, Tab 5, AR00115-16), yet the Response to Comments and the District’s
6 Opposition state that “a new baseball field is being constructed at the District’s Torrey Hills School for
7 older little league teams.” (Oppo. at 26:22-23; Vol. VI, Tab 1, AR03476.) This significant reduction in
8 usable open space, and construction of a new baseball field (which may result in transportation or other
9 impacts as a result in the change of location for little league games which must now be split between
10 two locations) constitutes a potentially significant impact under CEQA.

11 **7. The Project May Have a Significant Impact on Biological Resources**

12 Respondent does not dispute the fact that it failed to include a focused sensitive plant survey
13 resulting from its misidentification of the federally-listed, endangered Del Mar Manzanita. (Oppo. at
14 27:25-13.) Instead, Respondent dismisses the concerns raised by Petitioner and the California
15 Department of Parks and Recreation, claiming that that “[e]ven if accurate, the encroachment into the
16 Southern Marina Chaparral will be temporary, minimal (less than 0.01 acres), and the District
17 committed to use Best Management Practices when performing the outfall improvements.” (*Id.* at
18 28:11-13.) The use of “Best Management Practices” is insufficient to mitigate potential impacts to the
19 federally-listed, endangered plant species *that the District did not know existed* at the project site. The
20 District must perform a focused sensitive plant survey as stated by the California Department of Parks
21 and Recreation to fully analyze and specifically mitigate impacts to this endangered species. (See
22 *Stanislaus Audubon Society, supra*, 33 Cal.App.4th at 156 [comments from public agencies can
23 constitute substantial evidence supporting a fair argument]; see also *City of Arcadia v. State Water*
24 *Resources Control Bd.* (2006) 135 Cal.App.4th 1392, 1425.)

25 **III. CONCLUSION**

26 For the reasons stated above, Save the Field respectfully requests that the Court grant its
27 Petition for Writ of Mandate and order Respondent to conduct an environmental impact report
28 analyzing all aspects of the Project.

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DATED: November 6, 2020

PROCOPIO, CORY, HARGREAVES &
SAVITCH LLP

By: 

Rebecca L. Reed
Justin M. Fontaine
Attorneys for Petitioner
SAVE THE FIELD

1 **PROOF OF SERVICE**

2 I am a resident of the State of California, over the age of eighteen years, and not a party to
3 the within action. My business address is PROCOPIO, CORY, HARGREAVES & SAVITCH
4 LLP, 525 "B" Street, Suite 2200, San Diego, California 92101. On November 6, 2020, I served
5 the within documents:

6 **REPLY TO RESPONDENT DEL MAR UNION SCHOOL DISTRICT'S BRIEF IN
7 OPPOSITION TO SAVE THE FIELD'S PETITION FOR WRIT OF MANDATE**

- 8 **BY FACSIMILE** by transmitting via facsimile number (619) 235-0398 the document(s) listed
9 above to the fax number(s) set forth below on this date before 5:00 p.m. A copy of the
10 transmission confirmation report is attached hereto.
- 11 **BY U.S. MAIL** by placing the document(s) listed above in a sealed envelope with postage
12 thereon fully prepaid, in the United States mail at San Diego, California addressed as set forth
13 below. I am readily familiar with the firm's practice of collection and processing
14 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
15 Service on the same day with postage thereon fully prepaid in the ordinary course of business.
16 I am aware that on motion of the party served, service is presumed invalid if postal
17 cancellation date or postage meter date is more than one day after date of deposit for mailing
18 an affidavit.
- 19 **BY OVERNIGHT DELIVERY** by placing the document(s) listed above in a sealed overnight
20 envelope and depositing it for overnight delivery at San Diego, California, addressed as set forth
21 below. I am readily familiar with the practice of this firm for collection and processing of
22 correspondence for processing by overnight mail. Pursuant to this practice, correspondence
23 would be deposited in the overnight box located at 530 "B" Street, San Diego, California 92101
24 in the ordinary course of business on the date of this declaration.
- 25 **BY E-MAIL OR ELECTRONIC SERVICE (via One Legal Online Court Services):** I
26 served upon the designated recipients via electronic transmission through the One Legal system
27 on November 6, 2020. Upon completion of said transmission of said documents, a certified
28 receipt is issued to filing party acknowledging receipt by One Legal's system. Once One Legal
has served all designated recipients, proof of electronic service is returned to the filing party.

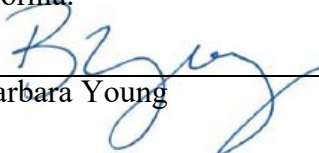
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Attorneys for Respondent,
Del Mar Union School District

24 (State) I declare under penalty of perjury under the laws of the State of California that the
above is true and correct.

25 Executed on November 6, 2020, at San Diego, California.

26 
27 _____
28 Barbara Young