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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
18 **COUNTY OF FRESNO**

20 FRIENDS OF CALWA, INC. and FRESNO  
BUILDING HEALTHY COMMUNITIES,

21 Plaintiffs and Petitioners,

22 v.

23 CALIFORNIA DEPARTMENT OF  
24 TRANSPORTATION, TONY TAVARES, in  
his official capacity as the Director of  
25 California Department of Transportation, and  
DOES 1-20,

26 Defendants and Respondents.  
27  
28

Case No. 23CECG04109

**PETITIONERS' OPENING BRIEF ON  
THE CEQA MERITS**

ASSIGNED FOR ALL PURPOSES TO:  
JUDGE Geoffrey Wilson

**Date:** January 9, 2026

**Time:** 1:30 pm

**Dept.:** 32

**Action filed:** October 2, 2023

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1 **INTRODUCTION**

2 This action challenges Respondent California Department of Transportation’s (“Caltrans”)  
3 environmental review and approval of the South Fresno State Route 99 Corridor Project (“Project”), a  
4 major highway expansion project that would vastly increase air pollution, industrial buildout, and  
5 heavy-duty truck traffic in already overburdened communities. Despite Caltrans’ efforts to depict it  
6 as a minor update to outdated highway facilities, record documents make clear that the Project would  
7 convert two small half-interchanges that naturally limit the flow of trucks into South Fresno into a  
8 spaghetti bowl of ramps, lanes, and overcrossings—increasing the number of interchange lanes eight-  
9 fold and paving the way for a 33 percent increase in capacity on the highway mainline. By Caltrans’  
10 own estimates, the Project would generate nearly two million additional truck trips *per year* in South  
11 Fresno and increase particulate matter pollution at one of the Project’s interchanges by 854 percent  
12 over no-build emissions. This is without accounting for a new 3,000-acre industrial park adjacent to  
13 the Project site that Caltrans planned the Project around but omitted from its environmental review.

14 Recognizing the Project’s potential to generate significant environmental impacts, Caltrans  
15 determined that the California Environmental Quality Act, Public Resources Code § 21000 et seq.  
16 (“CEQA”), required it to prepare an Environmental Impact Report (“EIR”) to inform Project  
17 approval. In doing so, Caltrans was required to evaluate and disclose all reasonably foreseeable  
18 direct, indirect, and cumulative impacts of the Project in its entirety; consider less harmful  
19 alternatives; and adopt feasible and enforceable measure to reduce adverse impacts to insignificance.

20 Caltrans’ environmental review fell egregiously short. Among other things, Caltrans: failed to  
21 acknowledge the existence of *any* impacted communities in the Project area; unlawfully carved out  
22 the adjacent industrial park even though it was co-designed with the highway expansion; improperly  
23 minimized Project air pollution to avoid a significance determination; failed to disclose the Project’s  
24 effects on inducing industrial growth and to analyze its cumulative effects with related transportation  
25 and industrial activities; flouted Legislative mandates for evaluating transportation impacts; and  
26 failed to set forth enforceable mitigation measures to reduce significant impacts on greenhouse gas  
27 emissions. In doing so, Caltrans refused to acknowledge much less avoid or mitigate significant  
28 impacts on air quality, traffic, noise, and the health and welfare of South Fresno communities.

1 For South Fresno residents, this is far from the first time an unwanted transportation project  
2 has threatened the health and safety of their communities. When Route 99 was constructed along the  
3 southern edge of the City of Fresno in the 1950s and 60s, it displaced residents and erected a physical  
4 barrier between South Fresno’s communities of color and the whiter and wealthier neighborhoods to  
5 the north. Neighborhoods surrounding the Project interchanges—including the historic communities  
6 of Calwa and Malaga—have since become among the most polluted in the state from particulate  
7 matter and other traffic-related emissions, as well as industrial facilities fed by trucks that flow from  
8 Route 99. Caltrans is once again pushing a transportation project on South Fresno without disclosing  
9 its true costs to residents or involving them in planning their own communities’ future. Because  
10 Caltrans’ EIR is prejudicially and irreparably flawed, its Project approval must be set aside.

## 11 **FACTUAL AND PROCEDURAL BACKGROUND**

### 12 **A. Project Setting in South Fresno**

13 The Project targets a section of State Route 99 that cuts through the southern extent of the City  
14 of Fresno in an area home to well over 10,000 residents. AR282-83, 4332. The historic communities  
15 of Calwa and Malaga, established around the same time as the City, lie within roughly a mile of the  
16 Project: Calwa just north of its North Avenue interchange, and Malaga between North Avenue and  
17 the Project’s American Avenue interchange to the south. AR29, 4123. Other unincorporated  
18 communities like Daleville and the East Britten Avenue residential area, neighborhoods in West  
19 Fresno, and the Flamingo Mobile Home Lodge lie within 1.5 miles of the Project. Residents are  
20 served by a broad array of community assets, including the Sikh Temple Gurdawara Nanaksar Sahib  
21 (0.6 miles from the Project), Orange Elementary School (0.85 miles from the Project), Malaga  
22 Elementary School (1 mile from the Project), West Fresno Elementary and Middle Schools (1.4 miles  
23 from the Project), and numerous shops and restaurants. AR283; *see* AR4123 (Notice of Preparation  
24 identifying community assets). A County Juvenile Justice Campus housing a 1,400-bed detention  
25 center for youth, a courthouse, and two schools abuts the American Avenue interchange. AR6, 4456;  
26 Decl. of Stephanie Safdi (“Safdi Decl.”), Ex. 9.

27 Despite a long history of community investment, local and State land use and transportation  
28 policies have made South Fresno among the most impoverished and polluted areas in the state. *See*

1 AR 4123 (recording that some South Fresno residents “have lived in their homes for generations”),  
2 4347. Calwa and Malaga are designated under State law as “disadvantaged unincorporated  
3 communities” due to their poverty and lack of access to municipal amenities; well over half of  
4 residents have incomes under twice the federal poverty rate. AR4348-49. Local zoning has exploded  
5 industry in the area, with industrial land use designations encompassing entire neighborhoods and  
6 noxious land uses—waste management facilities, poultry processing plants, a biomass facility,  
7 recycling centers, a glass manufacturing plant, and others—threaded through residential areas.  
8 AR4336. Three major distribution centers (Amazon, Ulta, and Valley Wide Beverage) lie within one  
9 mile of the Project, contributing significant vehicle traffic. AR3184, 3191. Truck routes serving  
10 industry and warehouses cut through South Fresno communities, running alongside homes, places of  
11 worship, and parks. AR2509-10. The majority of residents over-exposed to these polluting land uses  
12 are non-white—including 98.6 percent of Calwa. AR 4333 (noting designation as “High Poverty and  
13 Segregation”). In 2022, the Attorney General stepped in, advising the County that policies that further  
14 concentrate industrial uses in Calwa and Malaga “in light of known pollution burdens, health risks,  
15 and population demographics raise[] civil rights and environmental justice concerns.” AR4348.

16 Even so, the County of Fresno forged ahead with plans to expand industrial buildout in South  
17 Fresno, contingent on Caltrans expanding highway infrastructure to serve it. Since 2007, the County  
18 has been pursuing efforts to develop a large “industrial campus” adjacent to the City. AR12119,  
19 12501. In 2017, the County Board of Supervisors “directed staff to proceed with evaluation of  
20 options to develop an industrial area within the unincorporated area of Fresno County with initial  
21 focus on the Malaga, Calwa, and the Golden State Industrial Corridor.” Safdi Decl., Ex. 1 at 2. On  
22 August 24, 2021, the Board voted unanimously to approve a 2,940-acre location “generally bounded  
23 by North Avenue to the north, Peach Avenue and State Route 99 to the west, Fowler Avenue to the  
24 east, and American Avenue to the south for further County Staff study for [the] proposed future  
25 Fresno County Business and Industrial Campus.” *Id.*, Ex. 2 at 2. The Board also “direct[ed] staff to  
26 develop an Initial Infrastructure Assessment assessing infrastructural availability and needs to serve  
27 the proposed future Fresno County [Industrial Campus].” *Id.* Caltrans and the County worked  
28 together to ensure that the American Avenue interchange expansion would accommodate truck traffic

1 serving the Campus’s 97 million square feet of building inventory. *See* AR12504, 12541-58.

2 The concentration of industrial and highway buildout in South Fresno subjects residents to  
3 some of the worst air quality conditions in the country. AR4336, 4242. The San Joaquin Valley Air  
4 Basin, where the Project is located, is in federal nonattainment status for fine particulate matter  
5 (PM2.5) pollution, extreme nonattainment for 8-hour ozone pollution, and state nonattainment for  
6 PM10 pollution—all sources of pollution tied to car and truck traffic. AR117. Ozone, the main  
7 component of smog, forms when emissions from vehicles and industrial facilities combine with  
8 sunlight. AR2579-80. PM2.5 and PM10 are any materials in the air with a diameter less than or equal  
9 to 2.5 or 10 microns, respectively. AR1455. They are a direct product of tailpipe emissions. AR2586.  
10 According to State CalEnviroScreen data, census tracts in and around the Project site score in the 96<sup>th</sup>  
11 to 98<sup>th</sup> percentiles statewide for PM2.5 pollution. AR2511-12. They are also in the 99<sup>th</sup> percentile for  
12 diesel particulate matter (DPM), a toxic stew of ultrafine PM2.5 including black carbon, cancer-  
13 causing organic compounds, and NOx emitted in diesel exhaust. AR2511-12, 2516, 2596, 2859-62.

14 These and other pollutants damage the health of South Fresno residents. Even low levels of  
15 ozone exposure can cause lung irritation, decreased lung function, inflammation, and exacerbation of  
16 chronic health conditions, while acute exposure contributes to hospitalizations and deaths. AR2580.  
17 PM2.5 particles pose a particularly grave health risk due to their ability to penetrate deep into the  
18 lungs and even the bloodstream. AR2586. Exposure to particulate matter during pregnancy is also  
19 associated with low birth weight and premature birth. AR2588. DPM has been classified as  
20 carcinogenic based on evidence that exposure elevates risk of lung cancer, exacerbates asthma  
21 attacks, and decreases lung function in children. AR2596, 2700, 2862. Reflecting air quality burdens,  
22 census tracts in the Project vicinity rank in the 97<sup>th</sup> percentile for incidence of asthma, the 96<sup>th</sup> for low  
23 birth weight, and the 92<sup>nd</sup> for cardiovascular disease. AR2511-12; *see* AR2697, 2702, 2707, 2712. In  
24 the aggregate, census tracts near the Project fall in the 98<sup>th</sup> to 100<sup>th</sup> percentiles statewide for pollution  
25 burden and social vulnerabilities. AR2511-12, 15405; *see* AR11803 (cumulative burden map).

#### 26 **B. The South Fresno State Route 99 Corridor Project**

27 Currently, vehicles traveling along Route 99 access local roadways in South Fresno by way of  
28 “half interchanges” at North, Cedar, and American Avenues; these half interchanges separate on- and

1 off-ramps, limiting traffic flow between the highway and local roads. AR678. The Project would  
2 replace the half interchanges with expanded “full” interchanges at North and American Avenues.  
3 AR36. Among other things, the Project would expand each interchange from two to four lanes; build  
4 new ramps and grade separations to increase traffic capacity and allow for bidirectional traffic flow;  
5 and build a new four-lane overcrossing over the highway. AR36-39. Caltrans described the Project as  
6 part of an “ultimate route concept” that would expand the highway from six to eight lanes. AR31.  
7 According to Caltrans, the Project is designed to make the interchanges “serve as main points of  
8 access for the existing and developing industrial and commercial businesses” in South Fresno. AR16.

9 Caltrans considered just two build alternatives for each interchange, which differed only in  
10 their configuration. AR18-19. Both build alternatives would greatly expand traffic capacity. AR37-  
11 42. By Caltrans’ own estimates, expanding the interchanges would result in a 56% increase in truck  
12 traffic at the North Avenue interchange and a 94% increase in truck traffic at the American Avenue  
13 interchange by 2026 over a No Build alternative, amounting to 1.93 million added truck trips per year  
14 in South Fresno by 2046. AR1523, 1525-27. As a result, the Project would, according to Caltrans,  
15 increase PM10 emissions at American Avenue by 71% in 2026 and a staggering 854% in 2046 and  
16 increase PM2.5 pollution by 54% by 2026 over No Build. AR1507. In addition, Project construction  
17 would emit carbon monoxide, NOx, volatile organic compounds, PM2.5, PM10, and toxic air  
18 contaminants. AR128-29. Beyond localized impacts, greenhouse gas emissions would rise by 3,414  
19 tons per year at American Avenue and 4,281 tons per year at North Avenue by 2046. AR148.

### 20 **C. Environmental Review Process, Public Concerns, and Project Approval**

21 On March 8, 2019, Caltrans issued a Notice of Preparation for an EIR for the Project under  
22 CEQA and circulated the Draft EIR for public comment between October 14 and December 3, 2021.  
23 AR751, 1275-1382. The EIR concluded that the only significant environmental impacts of the Project  
24 would be to greenhouse gas emissions, which it determined could not be feasibly mitigated. AR4.

25 Comments by residents, non-profits, and the regional Air District raised a wide range of  
26 concerns with the Project and Caltrans’ environmental review—including the EIR’s erasure of South  
27 Fresno communities despite the documented existence of tens of thousands of residents; its wholesale  
28 exclusion of the Industrial Campus; its refusal to employ Legislatively-mandated metrics to evaluate

1 significance of environmental impacts; its superficial cumulative impacts analysis; its refusal to  
2 conduct a Health Risk Assessment to identify air quality impacts on nearby sensitive receptors,  
3 including children sleeping in the Juvenile Justice Campus at the Project’s doorstep; and Caltrans’  
4 inexplicable conclusion that the Project would not cause significant air quality impacts despite its  
5 own data showing otherwise. *See, e.g.*, AR2408-86, 2508-2923, 4331-4355.<sup>1</sup>

6 Caltrans brushed aside these concerns in its Final EIR, issued January 24, 2023. AR10. Among  
7 other things, Caltrans defended its decision not to consider impacts on Calwa, Malaga, and other  
8 adjacent communities and sensitive land uses by reducing the Project area for the environmental  
9 justice and community cohesion analysis from two miles in the Draft EIR to 0.5 miles. AR303-04. It  
10 then deemed residential neighborhoods “outside of the project area.” AR59. Caltrans adopted a  
11 statement of overriding considerations to support its approval of the Project despite “significant and  
12 unavoidable” greenhouse gas impacts, AR5, and it filed a Notice of Determination of its approval of  
13 the Project and certification of the Final EIR on February 6, 2023, AR1.

#### 14 **D. Federal and State Litigation**

15 On March 8, 2023, Petitioners timely filed a Verified Petition for Writ of Mandate and  
16 Complaint for Declaratory and Injunctive Relief in the U.S. District Court for the Eastern District of  
17 California against Caltrans and joint Project proponent the Federal Highway Administration alleging  
18 violations of CEQA and federal law relating to their approvals of the Project. *Friends of Calwa v.*  
19 *Cal. Dept. of Transp.*, Case No. 1:23-CV-00353 (E.D. Cal.). After Caltrans moved to dismiss the  
20 state claims for lack of jurisdiction, Petitioners refiled the CEQA and state civil rights claims in this  
21 Court on October 2, 2023. On March 12, 2025, the Fifth District Court of Appeal directed this Court  
22 to vacate its October 17, 2024 order granting Caltrans’ Motion for Summary Adjudication of  
23 Petitioners’ CEQA claims, and the Court set this proceeding for hearing on the CEQA merits.

#### 24 **LEGAL BACKGROUND**

25 CEQA is California’s bedrock law for public disclosure and informed environmental  
26 decisionmaking. CEQA requires government agencies to “give prime consideration to preventing  
27 \_\_\_\_\_

28 <sup>1</sup> Community members also shared concerns with Caltrans in person at meetings at the Friends of Calwa community center, though Caltrans did not maintain records of oral comments. AR198.

1 environmental damage when carrying out their duties,” *Mountain Lion Found. v. Fish & Game*  
2 *Comm’n*, 16 Cal.4th 105, 112 (1997), and must be “interpreted in such manner as to afford the fullest  
3 possible protection to the environment within the reasonable scope of the statutory language,” *Laurel*  
4 *Heights Improvement Assn. v. Regents of Univ. of Cal.*, 47 Cal.3d 376, 390 (1988). Before granting  
5 any discretionary approval for a project that may have a significant effect on the environment, the  
6 lead agency—here, Caltrans—must prepare an EIR “provid[ing] the public and responsible  
7 government agencies with detailed information on the potential environmental consequences of an  
8 agency’s proposed decision.” *Mountain Lion Found.*, 16 Cal.4th at 113; *see* Pub. Res. Code  
9 §§ 21061, 21151; Guidelines<sup>2</sup> § 15003(a) (“The EIR requirement is the heart of CEQA.”). “A  
10 “document of accountability,” the EIR is intended to “protect[] not only the environment but also  
11 informed self-government.” *Laurel Heights*, 47 Cal.3d at 392 (citation omitted).

12 To satisfy these purposes, the CEQA Guidelines require that an EIR include detailed analysis  
13 of a project’s direct, indirect, and cumulative effects on the environment. Guidelines § 15126.2; *see*  
14 Pub. Res. Code § 21100 (dictating EIR contents). The project to be evaluated in the EIR must  
15 constitute “the whole of an action, which has the potential for resulting in either a direct . . . or a  
16 reasonably foreseeable indirect physical change in the environment.” Guidelines § 15378(a). Further,  
17 the EIR must include a detailed and accurate description of the environmental setting in the vicinity  
18 of the project constituting a baseline against which the agency determines whether an impact will be  
19 significant. *Id.* § 15125. Before greenlighting a project, the agency must find that significant  
20 environmental effects identified in the EIR will be wholly avoided or mitigated, or that effects that  
21 cannot be feasibly mitigated are outweighed by specific overriding project benefits. Pub. Res. Code  
22 § 21081. In each of these respects, CEQA ensures “the integrity of the process of decisionmaking by  
23 precluding stubborn problems or serious criticism from being swept under the rug.” *Kings Cnty.*  
24 *Farm Bureau v. City of Hanford*, 221 Cal.App.3d 692, 733 (1990) (citation omitted).

## 25 STANDARD OF REVIEW

26 An agency violates CEQA when it prejudicially abuses its discretion, which occurs when it

27 \_\_\_\_\_  
28 <sup>2</sup> “Guidelines” refers to the implementing regulations promulgated by the Natural Resources Agency  
and codified at title 14, section 15000 *et seq.* of the California Code of Regulations.

1 “has not proceeded in a manner required by law or if the determination or decision is not supported  
2 by substantial evidence.” Pub. Res. Code § 21168.5. Because errors of law and fact “differ[]  
3 significantly,” the court “must adjust its scrutiny to the nature of the alleged defect.” *Vineyard Area*  
4 *Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal.4th 412, 435 (2007).

5 Courts review errors of law de novo, without deference to the agency. *Sierra Club v. County*  
6 *of Fresno*, 6 Cal.5th 502, 512 (2018). In doing so, they “scrupulously enforce all legislatively  
7 mandated CEQA requirements.” *Vineyard Area Citizens*, 40 Cal.4th at 435. The de novo standard  
8 applies when an agency fails to “employ[] the correct procedures” and to mixed questions of law and  
9 fact that “require[] a determination whether statutory criteria were satisfied.” *Sierra Club*, 6 Cal.5th at  
10 516. Courts also determine de novo whether an EIR discloses information sufficient to “apprise all  
11 interested parties of the true scope of the project for intelligent weighing of the environmental  
12 consequences of the project.” *Cmtys. for a Better Env’t v. City of Richmond*, 184 Cal.App.4th 70, 82-  
13 83 (2010) (citation omitted). If an EIR “omits material necessary to informed decisionmaking,” the  
14 “error is prejudicial,” and “harmless error” analysis does not apply. *Sierra Club*, 6 Cal.5th at 515.

15 When factual issues predominate, courts review the record to determine whether it “contains  
16 substantial evidence to support the [agency’s] factual determinations.” *Vineyard Area Citizens*, 40  
17 Cal.4th at 427. “Substantial evidence” includes “facts, reasonable assumptions predicated upon facts,  
18 and expert opinion supports by facts” but not “[a]rgument, speculation, [or] unsubstantiated opinion  
19 or narrative.” Guidelines § 15384. Courts carefully “scrutinize the record” and set project approvals  
20 aside where not grounded in substantial evidence. *Laurel Heights*, 47 Cal.3d at 408.

## 21 ARGUMENT

### 22 **I. Caltrans Unlawfully Erased Nearby Communities from the Project’s Environmental** 23 **Setting, Rendering the EIR Inadequate as an Informational Document**

24 The EIR described the Project’s environmental setting as a uniformly industrial and  
25 commercial area devoid of residences and other sensitive receptors<sup>3</sup> despite extensive record

26 \_\_\_\_\_  
27 <sup>3</sup> An EIR must consider whether a project will “[e]xpose sensitive receptors to substantial pollutant  
28 concentrations.” Guidelines, App. G § III(d). A sensitive receptor includes “children, the elderly, and  
communities already experiencing high levels of air pollution and related diseases,” *Cleveland Nat’l*

1 evidence of both, including pointed comments by residents asserting their own presence. These  
2 deficiencies infected the entire EIR by misstating the baseline against which Project impacts were  
3 evaluated, preventing informed understanding of the nature and degree of risk the Project presents.  
4 These flaws were particularly severe for the Project’s air quality analysis, whose arbitrary 500-foot  
5 radius to evaluate air pollution impacts misled readers about effects on nearby sensitive populations.  
6 Because the deficiencies in the EIR’s environmental setting go to whether “the informational  
7 requirements of CEQA have [] been met,” they are reviewed de novo. *John R. Lawson Rock & Oil,*  
8 *Inc. v. State Air Res. Bd.*, 20 Cal.App.5th 77, 96 (2018). And because the flawed description failed to  
9 “apprise all interested parties of the true scope of the project for intelligent weighing of the  
10 environmental consequences of the project,” the EIR “is inadequate as a matter of law.” *San Joaquin*  
11 *Raptor/Wildlife Rescue Ctr. v. County of Stanislaus*, 27 Cal.App.4th 713, 734-35 (1994).

12 **A. The EIR’s baseline description of the Project’s environmental setting was**  
13 **prejudicially flawed.**

14 “The fundamental goal of an EIR is to inform decision makers and the public of any  
15 significant adverse effects a project is likely to have on the physical environment.” *Neighbors for*  
16 *Smart Rail v. Exposition Metro Line Construction Auth.*, 57 Cal.4th 439, 447 (2013). To do so, “an  
17 EIR must delineate environmental conditions prevailing absent the project, defining a ‘baseline’  
18 against which predicted effects can be described and quantified.” *Id.* “The purpose of this  
19 requirement is to give the public and decision makers the most accurate and understandable picture  
20 practically possible” of the project’s likely effects. Guidelines § 15125(a).

21 The EIR’s environmental setting must describe the entire “area where direct or indirect  
22 impacts may occur”—a geographic scope that almost always extends well beyond the project  
23 footprint. *Make UC A Good Neighbor v. Regents of Univ. of Cal.*, 88 Cal.App.5th 656, 689 (2023);  
24 *see Muzzy Ranch Co. v. Solano Cnty. Airport Land Use Comm’n*, 41 Cal.4th 372, 387 (2007) (“[T]he  
25 project area does not define the relevant environment for purposes of CEQA when a project’s  
26 environmental effects will be felt outside the project area.” (citation omitted)); Guidelines § 15125(a)

27 \_\_\_\_\_  
28 *Forest Found. v. San Diego Assn. of Gov’ts*, 17 Cal.App.5th 413, 438 (2017), as well as sensitive  
land uses like schools, homes, daycare centers, places of worship, and hospitals (AR274, 1492).

1 (EIR must describe “physical environmental conditions in the vicinity of the project”). The area of  
2 analysis “cannot be so narrowly defined that it necessarily eliminates a portion of the affected  
3 environmental setting.” *Bakersfield Citizens for Local Control v. City of Bakersfield*, 124  
4 Cal.App.4th 1184, 1216 (2004). Otherwise, agencies would proceed without awareness of the  
5 environmental effects a project would have beyond its footprint, undermining CEQA’s purpose. *Save  
6 the Plastic Bag Coal. v. City of Manhattan Beach*, 52 Cal.4th 155, 173 (2011) (citing Pub. Res. Code  
7 § 21060.5). “If the description of the environmental setting is inaccurate, incomplete or misleading,  
8 the EIR does not comply with CEQA.” *Cleveland Nat’l Forest Found.*, 17 Cal.App.5th at 439-440.

9 Courts thus routinely invalidate EIRs based on an inadequate description of the environmental  
10 setting. *See, e.g., San Joaquin Raptor*, 27 Cal.App.4th at 725-26 (EIR informationally defective for  
11 failing to disclose existence of wetlands near project site); *Sierra Watch v. County of Placer*, 69  
12 Cal.App.5th 86, 96-99 (2021) (EIR’s fleeting references to Lake Tahoe Basin failed to inform readers  
13 that Basin is a significant feature in region); *County of Amador v. El Dorado Cnty. Water Agency*, 76  
14 Cal.App.4th 931, 953-55 (1999) (EIR’s “mere recitation” of lake levels failed to provide “adequate  
15 description of the existing environment” to inform decision on repurposing hydroelectric project for  
16 consumptive water use). For instance, in *Cleveland National Forest Foundation*, the court invalidated  
17 a program EIR for a regional transportation plan because its description of the plan’s environmental  
18 setting failed to provide adequate baseline information about the “approximate number and location  
19 of sensitive receptors near planned transportation projects” and thus “precluded informed public  
20 participation and decision making.” 17 Cal.App.5th at 439, 441. The court specifically faulted the  
21 agency for failing to use available data to “develop[] a reasoned estimate of the number and location  
22 of sensitive receptors adjacent to highways and heavily traveled roadways.” *Id.* at 440.

23 The EIR’s description of the environmental setting here suffered from even more glaring  
24 informational defects. The EIR described the Project setting as an exclusively “industrial and  
25 commercial zone” intended to “support[] traditional and emerging industrial and commercial business  
26 activities” with no residential neighborhoods at all. AR16; *see* AR857 (“There are only industrial and  
27 commercial businesses in the [P]roject area . . .”). The Draft EIR went even further, asserting that  
28 “the closest residential neighborhoods [are] over 2 miles away” from the Project. AR857. After

1 Petitioners and the regional Air District alerted Caltrans to the presence of tens of thousands of  
2 residents within a mile-and-a-half of the Project interchanges (AR2508, 2410, 4332, 13352), Caltrans  
3 redefined the Project area as “approximately a half-mile from the center of State Route 99 and the  
4 interchanges” (AR304) and insisted that “no populations were identified within the project area”  
5 (AR59). Although Caltrans conceded that “[s]everal minority or low-income populations were  
6 identified outside of the project area,” it failed to characterize the size, location, and demographics of  
7 these communities, much less their vulnerabilities to traffic and industrial pollution. AR59. More, the  
8 EIR disclaimed the existence of any other “sensitive receptors in range of the project.” AR143.

9 Caltrans’ characterization of the Project setting as exclusively commercial and industrial  
10 contravenes the extensive data Caltrans had available to it. Comments pointed Caltrans to numerous  
11 residential communities within 1.5 miles of the Project, including Shady Lakes (Nuevo Lago) Mobile  
12 Home Park (0.6 miles), Calwa (.68 miles), Malaga (1.1 miles), Daleville (one mile), Flamino Mobile  
13 Home Lodge (1.4 miles), and other unincorporated neighborhoods. AR2510, 4333, 3493 (scoping  
14 comments). These areas alone amount to over 10,000 residents in the Project vicinity, many of whom  
15 are particularly sensitive to air pollution from diesel truck traffic the Project will contribute. AR4332,  
16 13381. According to the California Attorney General’s Office, Malaga “has a disproportionately high  
17 number of children” and “21% of Calwa residents are children under the age of 10, over double the  
18 statewide average,” while census tracts around the Project have “an asthma rate in the 90<sup>th</sup> percentile  
19 for California and a rate of cardiovascular disease in the 92<sup>nd</sup> percentile.” AR15405.

20 Comments also alerted Caltrans to sensitive, community-serving land uses throughout the  
21 Project vicinity, including places of worship and three elementary schools within a mile of the  
22 Project, another elementary and middle school 1.4 miles away, and the County Juvenile Justice  
23 Center housing up to 1,400 children and two schools 300 feet from the American Avenue  
24 interchange. AR2510, 4333, 4448; Safdi Decl., Ex. 9. The Air District informed Caltrans that based  
25 on its “review of the Project location and surrounding area, multiple receptors, such as nearby  
26 residences and a juvenile facility, have the potential to be impacted by Project-related construction  
27 and operational emissions.” AR275. Petitioners directed Caltrans to State mapping tools, census  
28 records, and a community emissions reduction program supplying extensive data about sensitive

1 receptors in the Project vicinity. AR2510-11, 2544-48, 2549-2759 (CalEnviroScreen data).

2         On the flip side, there is no record evidence at all supporting Caltrans’ depiction of South  
3 Fresno as an area empty of residential communities. Caltrans insisted it based its description of the  
4 environmental setting on “[i]n-depth community studies” it “conducted throughout 2019 and 2020”  
5 and that are “available on request.” AR304; *see* AR2246 (asserting Caltrans conducted “[e]xtensive  
6 outreach” but that “no specific EJ issues were raise [*sic*] by persons of minority of [*sic*] low-income  
7 status”). But Caltrans was unable to produce any such studies when Petitioners repeatedly requested  
8 their inclusion in the Administrative Record; indeed, according to Caltrans’ counsel, such studies do  
9 not exist. Safdi Decl. ¶¶ 15-20 & Exs. 12-17. Caltrans’ failure to conduct even a “minimal  
10 investigation into the exact location and extent” of affected populations, and to “fully explain[]” its  
11 inquiries to the public, contravened CEQA’s informational disclosure requirements. *San Joaquin*  
12 *Raptor*, 27 Cal.App.4th at 728.

13         To the contrary, Caltrans’ own documents outside the EIR reflect its knowledge of sensitive  
14 populations in the Project vicinity. For instance, Caltrans’ Draft 2019 Partnership Grant Application  
15 for the Central Valley’s Industrial Triangle Plan, which encompasses the Project, recorded that “[t]he  
16 Project Area also has a small residential community with approximately 3,600 people and 1,200  
17 residential units” with “a larger population of people of Hispanic origin compared to Fresno as a  
18 whole.” AR10437. A 2022 federal grant application for the Project prepared by Caltrans and regional  
19 transportation authorities recorded that “[a]ccording to 2019 population estimates, approximately  
20 9,166 people reside in the two tracts” affected by the Project. AR13381. It also acknowledged that the  
21 “Census tracts comprising the project area” are “Areas of Persistent Poverty,” with “poverty rates  
22 exceeding 20 percent.” *Id.* In a separate 2022 federal Project grant application, Caltrans further  
23 identified “1,629 residents representing just over 400 households” within one mile of each  
24 interchange. AR 12827. And Caltrans conceded in its Visual Impact Assessment the existence of the  
25 Juvenile Justice Campus just “300-feet” from the American Avenue interchange (AR2167), while  
26 inexplicably disclaiming the existence of “sensitive land uses (schools, daycare facilities, senior  
27  
28

1 living) within 500 feet of the project” (AR127).<sup>4</sup> Much like in *San Joaquin Raptor*, the EIR’s  
2 wholesale omission of residents and other sensitive receptors from the environmental setting “renders  
3 [its] identification of environmental impacts legally inadequate.” 27 Cal.App.4th at 729.

4 **B. Caltrans unlawfully excluded sensitive receptors from the Project’s air quality analysis.**

5 The EIR’s myopic air quality impacts analysis reveals how its flawed description of the  
6 Project’s environmental setting infects the entire EIR. In its Air Quality Report, Caltrans established  
7 an even narrower 500-foot radius to evaluate air pollution emissions, which it asserted to be the “zone  
8 of greatest concern near roadways.”<sup>5</sup> AR1491-92; *see* AR127. Caltrans never disclosed in either its  
9 EIR or Air Quality Report the origin of this radius or its basis, making the EIR informationally  
10 defective as a matter of law. *See Citizens of Goleta Valley v. Bd. of Supervisors*, 52 Cal.3d 553, 568  
11 (1990) (EIR must “disclose to the public the ‘analytic route the . . . agency traveled from evidence to  
12 action’” (citation omitted)). The 500-foot radius appears to stem from California Air Resources  
13 Board recommendations in its Air Quality and Land Use Handbook on siting of sensitive land uses.  
14 AR10156. But the Handbook itself undermines Caltrans’ analysis. According to the Handbook, the  
15 “range of relative cancer risk” for traffic studies extends to 1,700 feet from a roadway, with  
16 “additional non-cancer health risk . . . within 1,000 feet.” AR10158; *see* AR10160-61 (describing  
17 studies), 10162 (“In the traffic-related studies the additional health risk attributable to the proximity  
18 effect was strongest within 1,000 feet.”). It also disclaimed use of its recommendations for project  
19 evaluations, as a “site-specific analysis would be required” to determine actual risk. AR10157.

20 Doubling down on its flawed line-drawing for the area of potential impacts, Caltrans  
21 erroneously concluded that the Project “would not expose sensitive receptors to substantial pollutant  
22 concentrations” because “[t]here are no sensitive land uses (schools, day care facilities, senior living)  
23 within 500 feet of the project for any of the build alternatives.” AR127, 143. Even if use of this  
24 diminished radius did not amount to an obvious abuse of discretion, Caltrans’ air quality analysis

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26 <sup>4</sup> Even without these unexplained contradictions, Caltrans’ “mere recitation” of the existence of the  
27 Juvenile Justice Center in portions of the EIR would be inadequate as a matter of law to inform the  
public of the impact of the Project on the Center. *County of Amador*, 76 Cal.App.4th at 954.

28 <sup>5</sup> Caltrans contradicts itself elsewhere in the EIR, maintaining that the Project area was  
“approximately a half-mile from the center of State Route 99 and each interchange.” AR58.

1 misinformed the public by inexplicably refusing to consider air pollution impacts on sensitive  
2 receptors within the 500-foot radius—most notably the 1,400-bed Juvenile Justice Center, with two  
3 schools on site, a mere 300 feet from the American Avenue interchange. AR4456; Safdi Decl., Ex. 9.  
4 Caltrans’ clear acknowledgment of the existence of the Center housing children at the Project  
5 fenceline (AR3631) cannot be squared with its repeated insistence that there are no sensitive  
6 receptors in the Project’s zone of air quality impacts. On this ground alone, Caltrans’ EIR must be  
7 decertified so it can assess and disclose health impacts of air pollution on children residing and going  
8 to school at this facility.

9 Caltrans further abused its discretion by ignoring impacts on sensitive land uses just outside  
10 this arbitrary radius. As noted above, the regional Air District, which is “responsible for  
11 administering air quality standards for the San Joaquin Valley Air Basin” (AR197), identified risks to  
12 residences, daycare and healthcare facilities, and other sensitive receptors just outside the immediate  
13 Project area, which “have the potential to be impacted by Project-related . . . emissions.” AR275.  
14 Indeed, entire neighborhoods lie within a mile-and-a-half of the Project interchanges, some mere feet  
15 from the Route 99 mainline. AR2510, 4333, 4392. Even more communities are likely to be harmed  
16 by regional air pollutants like ozone that will be emitted by cars and trucks using the expanded  
17 interchanges. AR128. Yet Caltrans did not even try to quantify ozone emissions from the Project or  
18 describe sensitive receptors likely to be injured by its worsening of smog in this nonattainment area.  
19 See AR1512 (conceding that ozone “[e]missions analyses can be done to make comparisons with  
20 baseline and No Project conditions”). Nor did it consider populations likely to be impacted by  
21 emissions from traffic using the highway mainline or industrial development induced by the Project.  
22 See Sections III & VI, *infra*. The upshot is that Caltrans’ arbitrary line-drawing ignored the Project’s  
23 local and regional air quality impacts, a particularly severe omission in light of residents’ age and  
24 health conditions that make them particularly vulnerable to increased air pollution.

25 The Court of Appeal’s decision in *Sierra Watch v. County of Placer*, 69 Cal.App.5th 86  
26 (2021), which invalidated an EIR for similarly “arbitrary line drawing,” is instructive. There, the  
27 county employed what it deemed a “standard” 50-foot radius from a proposed resort construction site  
28 for analysis of noise impacts. *Id.* at 106-07. As here, “the EIR never considered impacts to sensitive

1 [receptors] lying outside [the artificially selected] zone,” [n]or did it discuss its reasons for not doing  
2 so.” *Id.* These omissions amounted to a clear violation of CEQA: “[A]n EIR may not ignore the  
3 regional impacts of a project proposal, including those impacts that occur outside of its borders,” nor  
4 may it “ignore [a project’s] impacts on sensitive areas sitting only a little over” a chosen radius where  
5 evidence shows they may be affected by project emissions. *Id.* at 107 (quoting *Citizens of Goleta*, 52  
6 Cal.3d at 575). Just so here. Caltrans’ legally flawed choice of a 500-foot radius to evaluate effects of  
7 air pollution and its attempted erasure of sensitive receptors dictate granting the Petition.

## 8 **II. Caltrans Unlawfully Excluded the County Industrial Campus from the EIR**

9 In addition to omitting entire communities from the scope of its EIR, Caltrans omitted central  
10 components of the Project under consideration. Most notably, the County of Fresno has been  
11 planning since 2007 to entitle an expansive new industrial park—the Fresno County Business and  
12 Industrial Campus (“Industrial Campus”)—in South Fresno to make the area an even larger epicenter  
13 for heavy industry, warehousing, and other commercial land uses. The County decided to locate the  
14 Campus adjacent to the Project to provide trucks serving its businesses direct access to Route 99. To  
15 do so, it coordinated extensively with Caltrans to design the Project interchanges to ensure sufficient  
16 lanes, bridges, and other highway infrastructure for Campus traffic. As reflected in months of  
17 communications between Caltrans and County staff and records of Caltrans’ Project modeling, the  
18 Campus’ needs dictated Caltrans’ design of the Project and were core to its purpose and need. None  
19 of this, however, is apparent from the EIR, which is entirely silent on the Industrial Campus. By  
20 hiding the Campus and its essential role in Project planning from public view, Caltrans produced an  
21 EIR that failed woefully to inform decisionmakers and the public of the true scope, extent, and  
22 environmental effects of the Project. On this basis too, Caltrans’ approval must be set aside so it can  
23 faithfully analyze and disclose the consequences of the Industrial Campus.

### 24 **A. Caltrans unlawfully piecemealed the Project’s environmental review by excising the 25 Industrial Campus from the Project description.**

26 An agency violates CEQA’s informational disclosure requirements when it segments  
27 environmental review of related activities, thereby “avoid[ing] the responsibility of considering the  
28 environmental impact of the project as a whole.” *Orinda Ass’n v. Bd. of Supervisors*, 182 Cal.App.3d

1 1145, 1171 (1986). This rule against piecemealing stems from CEQA’s requirement that a “project”  
2 evaluated in an EIR encompass “the whole of an action.” *POET, LLC v. State Air Res. Bd.*, 12  
3 Cal.App.5th 52, 73 (2017) (quoting Guidelines § 15378(a)). It is intended to ensure that  
4 “environmental considerations do not become submerged by chopping a large project into many little  
5 ones—each with a minimal potential impact on the environment—which cumulatively may have  
6 disastrous consequences.” *Laurel Heights*, 47 Cal.3d at 396 (quoting *Bozung v. Local Agency*  
7 *Formation Comm’n*, 13 Cal.3d 263, 283-84 (1975)). Courts must interpret the scope of a “project”  
8 under CEQA “in such manner as to afford the fullest possible protection to the environment within  
9 the reasonable scope of the statutory language.” *Tuolumne Cnty. Citizens for Responsible Growth v.*  
10 *City of Sonora*, 155 Cal.App.4th 1214, 1222 (2007) (quoting *Friends of Mammoth v. Bd. of*  
11 *Supervisors*, 8 Cal.3d 247, 259 (1972)). Whether an agency has engaged in piecemealing presents a  
12 question of law reviewed independently by the court, without deference to the agency. *Id.* at 1224-25.

13         Here, Caltrans unlawfully piecemealed its environmental review by excluding the Industrial  
14 Campus from the EIR’s Project description. The proposed 2,940-acre Campus is to be located in  
15 unincorporated Malaga immediately adjacent to Route 99, abutting the American Avenue interchange  
16 and bounded by North Avenue. AR12501; *see* AR12573, 12580 (Industrial Campus site map). The  
17 Campus’s 97 million square feet of building inventory (AR12504) will “focus[] on the needs of  
18 trucking, warehousing and distribution industries.” AR12501. On August 24, 2021, the County Board  
19 of Supervisors voted unanimously to advance planning for the Campus and “direct[ed] staff to  
20 develop an Initial Infrastructure Assessment assessing infrastructural availability and needs to serve  
21 the proposed future [Campus].” Safdi Decl., Ex. 1 at 2 & Ex. 2; *see* AR12572. A month later, the  
22 County Department of Public Works and Planning issued a Preliminary Area Information Report for  
23 the Campus. AR12500-06.

24         At the same time, the County and Caltrans engaged in extensive exchanges to co-design the  
25 projects to function interdependently. *See Tuolumne Cnty.*, 155 Cal.App.4th at 1229 (“[W]hen one  
26 activity is an integral part of another activity, the combined activities are within the scope of the same  
27 CEQA project.”); *Plan for Arcadia, Inc. v. City Council of Arcadia*, 42 Cal.App.3d 712, 726 (1974)  
28 (road widening and fashion park development “should be regarded as a single project” where fashion

1 park required the road improvement to proceed). For instance, an email exchange between Caltrans  
2 and County staff from August 24, 2021, the same day the County voted to advance Industrial Campus  
3 planning, reflects that the agencies held an in-person meeting in Caltrans’ headquarters to discuss the  
4 “proposed business and industrial campus.” AR12121-22. Two months later, a Caltrans engineer  
5 stated in an email that Caltrans was “meeting with the County now,” which told Caltrans that  
6 “American [Avenue] should be a 4-lane facility;” the Caltrans engineer asked for Project modeling to  
7 be repeated “with new industrial triangle in mind.” AR12554. On December 10, 2021, the County  
8 held another meeting with Caltrans to discuss the Campus and its specific implications for the  
9 Project. AR12548-49. Meeting notes reflect that the County again instructed Caltrans that the Project  
10 design features must accommodate Campus truck traffic, including “ultimate 4 lane and median  
11 facility within county’s established plan lines” and a new “bridge . . . to accommodate current/future  
12 developments.” AR12549. The County provided Caltrans with “cad files for intersection  
13 improvements,” while Caltrans agreed to “[c]oordinate with planning, structures and other relevant  
14 functional units.” *Id.* An accompanying memo is even more explicit that “[i]f the [Industrial Campus]  
15 is approved and constructed, then American Avenue will need to be four lanes.” AR12550; *see*  
16 AR12552 (email from Caltrans’ senior engineer requesting modeling “to include ‘the new industrial  
17 park’ that the county is talking about”), 12555 (email from Caltrans engineer stating, “If we want to  
18 entertain any four-lane options, we need new traffic projection from Planning after including the new  
19 industrial park.”). Ultimately, Caltrans approved a four-lane American Avenue expansion as the  
20 County instructed the Industrial Campus required (AR38), even though Caltrans staff confirmed that  
21 “traffic volumes without new industrial development only require two-lane[s]” (AR12541-42). Yet  
22 the EIR makes no mention of the Campus in its Project description, or anywhere in its discussion.

23 Caltrans’ omission of the Industrial Campus from the scope of the Project is textbook  
24 piecemealing. In *Laurel Heights*, the Supreme Court considered whether an EIR for a project that  
25 would relocate the UCSF School of Pharmacy to a building in the Laurel Heights neighborhood of  
26 San Francisco unlawfully segmented the project by only reviewing plans to take over 100,000 square  
27 feet of the building and not an additional 250,000 occupied by another tenant. 47 Cal.3d at 393. The  
28 agency contended there was no need to evaluate effects of future uses in the EIR because the

1 university had not approved any plans for the remaining space, nor could it prophesize what possible  
2 future uses might entail. *Id.* at 394. The Court disagreed, holding that “a public agency’s approval of  
3 a project or future portions of a project is not a prerequisite for an environmental impact report under  
4 CEQA.” *Id.* at 395. It also set out the controlling test for evaluating whether a potential future activity  
5 must be included in a project EIR. Specifically, “an EIR must include an analysis of the  
6 environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable  
7 consequence of the initial project; and (2) the future expansion or action will be significant in that it  
8 will likely change the scope or nature of the initial project or its environmental effects.” *Id.* at 369.

9 Both elements of the *Laurel Heights* test are satisfied here. In *Laurel Heights*, the Court found  
10 the first element satisfied where the university had expressed aspirations to occupy the facility in  
11 response to public inquiries and estimated the number of people who might occupy it when space  
12 became available; the Court also looked to private correspondence contemplating “long range use of  
13 the building.” *Id.* at 396-97 (emphasis omitted). Here, Caltrans’ public and private statements are far  
14 starker in describing the Industrial Campus as an outgrowth of the interchange expansion. In advance  
15 of the August 24, 2021 vote approving the Campus’ location next to the Project, a County supervisor  
16 told a local reporter that converting American Avenue into a full interchange would be necessary for  
17 the Campus to proceed in the identified location. AR12574-75. Noting that “American Avenue is a  
18 half-interchange,” he explained that “[t]hose kinds of things all have to be worked out as we move  
19 forward.” AR12574. Meeting notes, emails, and other documentation from ensuing months record  
20 Caltrans’ work to design the Project to accommodate Industrial Campus transportation needs. *See*,  
21 *e.g.*, AR2342 (November 2022 Preliminary Values Analysis Study Report for the Project stating that  
22 American Avenue “will eventually become a 4-lane facility with development of an industrial park”),  
23 12541-57 (emails, notes, and memoranda). Likewise, the County’s December 2021 Existing  
24 Conditions Report for the Industrial Campus incorporates the Project in describing infrastructure  
25 needed for the Campus. AR14239. Caltrans too concluded as much: An early draft of its EIR and  
26 funding documents identify “additional development . . . including 150+ acres of business park” in  
27 describing the need for the Project. AR3175, 5250.

28 While in *Laurel Heights* there was not even a sketch for a future pharmacy expansion, here

1 the Industrial Campus plans were concrete, written, mapped, and accompanied by extensive analysis  
2 of costs, benefits, and infrastructure needs. The record contains numerous maps of the Industrial  
3 Campus location next to the Project. *See, e.g.*, AR12119-20, 12505-06, 12573, 12580, 14081. County  
4 plans left no doubt as to how the Campus space would be used, going so far as to denote specific  
5 acreage and square footage allocated to each category of Industrial Campus use. AR12501-04. Under  
6 the standard announced in *Laurel Heights*, these are more than “reasonably definite proposals” for the  
7 development of the Industrial Campus following from the interchange expansion. 47 Cal.3d at 397.

8         Second, the Industrial Campus will significantly change the Project scope and environmental  
9 effects. In *Laurel Heights*, this test was met where the “eventual use of the entire Laurel Heights  
10 facility would include an increase in the amount of space used from approximately 100,000 square  
11 feet to 354,000 square feet and an increase in occupants from approximately 460 to 860.” 47 Cal.3d  
12 at 398. Here, the changes are more obvious. The future Industrial Campus brings within the scope of  
13 this transportation project the transformation of 127,325,880 square feet of primarily agricultural  
14 fields into heavy industrial uses, warehousing, and commerce. AR12504. Doing so stands to explode  
15 air quality emissions, noise impacts, visual impacts, and heavy-duty truck traffic using the expanded  
16 American Avenue interchange. In each of these ways, it is indisputable that the Campus will  
17 significantly change the nature and scope of the Project and its environmental impacts.

18         In excising the Industrial Campus from the EIR, Caltrans precluded the public from acquiring  
19 a full understanding of the Project’s scope and environmental effects, amounting to a per se  
20 prejudicial abuse of discretion. The possibility of making Caltrans’ “task . . . more difficult” is no  
21 excuse for hiding this core Project component from public view. *Laurel Heights*, 47 Cal.3d at 399.

22         **B. At a minimum, Caltrans was required to consider the Industrial Campus in the**  
23         **Project’s cumulative impacts analysis.**

24         Even if Caltrans’ exclusion of the Industrial Campus did not amount to unlawful  
25 piecemealing—which, as detailed above, it clearly did—Caltrans had, at the very least, to consider  
26 the cumulative contributions of the Campus to the Project’s environmental impacts. *See id.* at 394  
27 (exclusion of future expansion “is also inconsistent with the related rule that significant cumulative  
28 effects of a project must be considered in an EIR”); *Cmtys. for a Better Env’t*, 184 Cal.App.4th at 99

1 (although pipeline was not the same project as refinery upgrade considered in the EIR, its  
2 “cumulative contribution to the environmental impacts” was properly included). An EIR’s  
3 cumulative impacts analysis must consider “the incremental effects of an individual project when  
4 viewed in connection with the effects of past project, the effects of other current projects, and the  
5 effects of probable future projects.” Pub. Res. Code § 21083(b)(2); *see* Guidelines § 15130(b);  
6 Section V, *infra*. Here, the EIR failed to even mention the Industrial Campus in its cumulative  
7 impacts analysis. AR74-75. This omission alone renders the EIR legally defective as it means that the  
8 “severity and significance” of the Project’s cumulative impacts are not “reflected adequately” in the  
9 EIR. *See Golden Door Props., LLC v. County of San Diego*, 50 Cal.App.5th 467, 528 (2020).

10 The Industrial Campus is inarguably a “probable future project” within the meaning of  
11 CEQA. For CEQA purposes, a “probable future project” is “any future project where the applicant  
12 has devoted significant time and financial resources to prepare for any regulatory review.” *Gray v.*  
13 *County of Madera*, 167 Cal.App.4th 1099, 1127-28 (2008); *see San Franciscans for Reasonable*  
14 *Growth v. City and County of San Francisco* 151 Cal.App.3d 61, 75 (1984) (same). The record here  
15 clearly shows that the County has invested significant time and money into planning the development  
16 of the Industrial Campus, undertaking extensive planning analyses, site reviews, infrastructure  
17 assessments, and public hearings over a period of years. *See, e.g.*, AR14219-50, 12500-06; Safdi  
18 Decl., Ex. 1-2. Any argument that the Campus might never be built is “without merit:” the County’s  
19 “significant investment of time, money and technical planning” is sufficient to dictate its inclusion in  
20 cumulative impacts review. *San Franciscans for Reasonable Growth*, 151 Cal.App.3d at 75. By  
21 inexplicably omitting the Campus, Caltrans contributes to a situation in which “piecemeal  
22 development would inevitably cause havoc in every aspect of the urban environment.” *Id.* at 77.

### 23 **III. Caltrans Flouted Its Statutory Obligation to Analyze the Project’s Growth-Inducing** 24 **Impacts on Industrial Development in South Fresno**

25 Caltrans further unlawfully minimized the Project’s role in facilitating industrial buildout in  
26 South Fresno by neglecting to consider its growth-inducing impacts on unplanned industrial  
27 development. Caltrans’ failure to address growth-inducing impacts is reviewed *de novo* because it  
28 goes to the sufficiency of the EIR as an informational document. *See Napa Citizens for Honest Gov’t*

1 *v. Napa Cnty. Bd. of Supervisors*, 91 Cal.App.4th 342, 361 (2001).

2 CEQA requires that an EIR “include a detailed statement setting forth . . . [t]he growth-  
3 inducing impact of the proposed project.” Pub. Res. Code § 21100(b)(5); *see* Guidelines § 15126(g).  
4 This statement must “[d]iscuss the ways in which the proposed project could foster economic or  
5 population growth, or the construction of additional housing, either directly or indirectly, in the  
6 surrounding environment,” including project characteristics “which may encourage and facilitate  
7 other activities that could significantly affect the environment, either individually or cumulatively.”  
8 Guidelines § 15126.2(e); *see also* Guidelines § 15126.2(a) (requiring that EIR discuss “changes  
9 induced in . . . the human use of the land (including commercial and residential development)”).

10 Caltrans plainly violated these requirements. The Final EIR’s discussion of growth-inducing  
11 impacts comprises a single paragraph, in which Caltrans asserted without supporting analysis that  
12 “[t]here are no apparent pressures from the project that would encourage unplanned growth.” AR60;  
13 *see also* AR58 (confirming that “there is no further discussion of these topics in this document”). It  
14 reached this conclusion despite acknowledging in the very same paragraph that the Project is  
15 intended to “improve operations of the two existing interchanges,” easing flow of heavy-duty truck  
16 traffic, consistent with City and County visions of industrial and commercial growth in the Project  
17 area. *Id.*; *see* AR30 (Project needed to ease use of interchanges by “traffic, especially large trucks”).

18 The EIR’s other discussions of growth inducement confirm the absence of any such analysis.  
19 In its review of CEQA Checklist items, the EIR includes a “No Impact” finding about inducement of  
20 unplanned *population* growth, but wholly ignores induced commercial, economic, or industrial  
21 growth. AR155. For support, Caltrans mentions only that there are no plans for housing in the Project  
22 area, ignoring the most pressing concern for Petitioners: industrial growth. *Id.* It also misrepresents  
23 the Project, asserting that it “reconstructs existing infrastructure and does not extend a road or other  
24 infrastructure.” *Id.* This depiction conflicts with the actual Project description: Caltrans intends to  
25 replace the existing half interchanges with expanded “full” interchanges to allow bidirectional traffic  
26 flow, while expanding each interchange from two to four lanes, adding ramps, and constructing new  
27 overcrossing structures with four lanes and shoulders to increase traffic capacity. AR36-39, 85.

28 Tellingly, Caltrans in response to comments on the EIR disclaimed any responsibility to

1 consider the Project’s role in inducing future industrial growth. Petitioners raised the alarm that  
2 Caltrans had wholly overlooked the Project’s role in “cement[ing] and entrench[ing]” patterns of  
3 industrial buildout in South Fresno—a central concern for residents struggling with pollution, traffic,  
4 and safety impacts of existing industrial developments and resulting suppression of housing. AR281-  
5 300. Caltrans dismissed the issue, averring that “[l]ocal cities and counties have legal authority to  
6 designate zoning and approve development within their local jurisdictions.” AR302. Likewise, in  
7 response to concerns about aesthetic impacts of induced industrial growth, Caltrans demurred that  
8 “[v]isual standards of future development are the purview of the City and County of Fresno.” AR308.

9 Caltrans’ conclusory, one-paragraph statement denying the existence of growth-inducing  
10 impacts falls well short of the “detailed statement” required by CEQA. Pub. Res. Code  
11 § 21100(b)(5); see Guidelines § 15126.2(e). The Court of Appeal’s decision in *Napa Citizens for*  
12 *Honest Government* is instructive. There, petitioners challenged the county’s EIR for a specific plan  
13 to develop an airport industrial area, including addition of a business/industrial park. 91 Cal.App.4th  
14 at 352-53. Because the project did not call for addition of housing units, the county asserted it would  
15 have “no direct impact on housing, and thus no significant effect on the environment requiring  
16 discussion” in the EIR. *Id.* at 367. The court disagreed, explaining it “is settled that the EIR must  
17 discuss growth-inducing impacts even though those impacts are not themselves a part of the project  
18 under consideration, and even though the extent of the growth is difficult to calculate.” *Id.* at 368.  
19 Nor can an agency avoid the duty to discuss growth-inducing impacts because effects “will be felt  
20 outside of the project area.” *Id.* at 369; see *Save Our Peninsula Comm. v. Monterey Cnty. Bd. of*  
21 *Supervisors*, 87 Cal.App.4th 99, 130 (2001) (voiding EIR for failure to consider growth-inducing  
22 effects in broader region). The court concluded that a reasonably detailed discussion of growth-  
23 inducing impacts was required “to fulfill [the EIR’s] purpose as an informational document”—  
24 including, in that case, analysis to “identify the number and type of housing units that persons  
25 working within the Project area can be anticipated to require, . . . the probable location of those  
26 units,” and “whether the identified communities have sufficient housing units and sufficient services  
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1 to accommodate the anticipated increase in population.”<sup>6</sup> *Napa Citizens*, 91 Cal.App.4th at 370.

2 Just as in *Napa Citizens*, Caltrans improperly limited its consideration to growth-inducing  
3 impacts in the narrowly-drawn half-mile Project area. See AR60 (discussing only planned growth “in  
4 the project area”); AR155 (asserting that “[n]o housing or residential neighborhoods exist within or  
5 near the project area”). And even as to the Project area, Caltrans made no investigation of the  
6 Project’s role in facilitating planned industrial buildout nor of its role in inducing *unplanned*  
7 industrial buildout outside the scope of existing general and specific plans by unlocking  
8 transportation-related barriers to industrial and commercial development. AR60 (addressing only  
9 planned growth). Nor did the EIR discuss, or even acknowledge, Project characteristics that would  
10 foreseeably encourage industrial buildout—including expansion of capacity for heavy-duty trucks to  
11 access new industry from the highway mainline. See Guidelines § 15126.2(e) (requiring discussion of  
12 growth-inducing project characteristics). In this respect, the Project fell well short of even the flawed  
13 analysis in *Napa Citizens*, which had at least acknowledged that employment growth generated by the  
14 challenged plan could lead to “housing at locations outside the project area.” 91 Cal.App.4th at 370.

15 To the extent Caltrans may argue that its brief statement about growth-inducing effects  
16 satisfies CEQA’s information disclosure requirements, it is clearly wrong. Courts have acknowledged  
17 that the level of detail required in an EIR’s analysis of growth-inducing effects turns on a “multitude  
18 of factors, including, but not limited to, the nature of the project, the directness or indirectness of the  
19 contemplated impact and the ability to forecast the actual effects the project will have on the physical  
20 environment.” *Napa Citizens*, 91 Cal.App.4th at 369. Here, a central purpose of the Project is to  
21 expand interchange capacity for heavy-duty trucks to serve existing and future industrial and  
22 commercial development in South Fresno. AR30; AR1514. Caltrans selected the American Avenue  
23 and North Avenue interchanges because they “serve as main points of access for existing and  
24 developing industrial and commercial businesses” in the area. AR68. It described the Project need as  
25 accommodating expected increases in traffic “in the project area due to the implementation of  
26 planned development on both sides of the highway.” AR30; see AR32-33 (projecting increases in

27 \_\_\_\_\_  
28 <sup>6</sup> In *Napa Citizens*, the county ultimately satisfied the detailed statement requirement with a Market and Jobs/Housing Analysis providing the required housing projections. 91 Cal.App.4th at 370-71.

1 traffic volumes), 10897 (“The proposed new interchanges will provide additional capacity that will  
2 accommodate future planned growth and increased truck volumes in a quickly developing industrial  
3 area.”), 10935 (“The purpose of this project is to accommodate future growth in the project area by  
4 improving the operations of the existing interchanges.”). In its Air Quality Report, Caltrans likewise  
5 asserted that the Project is vital to improve traffic flow and safety “for future growth in the project  
6 area” and to allow “streamlined movement of goods along this segment of the State Route 99  
7 corridor” with “better access to local destinations.” AR1514. Similarly, in its Community Impact  
8 Analysis, Caltrans acknowledged that new and anticipated commercial facilities in the area, such as  
9 the recently developed Amazon and Ultra Beauty distribution centers, “will likely utilize the project  
10 interchanges and influence *further economic growth* for the region.” AR11172 (emphasis added).

11 Caltrans was equally explicit about the Project’s role in facilitating industrial development in  
12 grant proposals. In its 2020 Build Grant proposal for the Project, Caltrans insisted the Project would  
13 “help spur additional economic growth in the area, providing job opportunities for area residents.”  
14 AR11697. And it acknowledged in a parallel RAISE Grant proposal that the Project is intended to  
15 “not only serve existing businesses” but also to “open the area up to more industrial and commercial  
16 businesses that will provide additional jobs.” AR12808; *see* AR11680. In these respects, the Project  
17 was clearly intended to serve as a “catalyst for future development” in South Fresno, necessitating  
18 detailed analysis. *Stanislaus Audubon Soc’y, Inc. v. County of Stanislaus*, 33 Cal.App.4th 144, 158  
19 (1995) (quoting *City of Antioch v. City Council*, 187 Cal.App.3d 1325, 1337 (1986)).

20 In a similar vein, Caltrans’ internal documentation shows that industrial buildout will be a  
21 direct and foreseeable result of the Project. Caltrans projected that already by 2026, expanding the  
22 interchanges would increase average daily truck traffic by 56% at North Avenue and 94% at  
23 American Avenue over a No Build alternative. AR1523, 1525-27. By 2046, the Project would  
24 increase average daily truck traffic by 61.4% at North Avenue and 85.5% at American Avenue  
25 relative to No Build. AR1523, 1526-28. Caltrans was also explicit in internal documentation about  
26 the mechanisms for this induced truck traffic. It approvingly recited transportation studies showing  
27 that by “improving the access to locations along a freeway corridor, vacant land and property values  
28 increase as these sites are more attractive for development.” AR11176. According to Caltrans, it can

1 “be assumed that the improved freeway access at [the Project] location will improve the values and  
2 marketability of businesses near the project.” AR11178. These trends would in turn “increase local  
3 business vitality, which may translate into corresponding increases in employment.” AR11176.

4 To the extent Caltrans intended to hide behind uncertainties about the exact location and  
5 extent of future development as a reason not to perform a growth-inducing analysis, it was wrong on  
6 both the facts and the law. Caltrans asserted in the Draft EIR that “there are no specific plans or  
7 environmental documents being reviewed to indicate a change in the project area.” AR858. This  
8 statement ignored not only the Industrial Campus, but also the City’s then in-progress South Central  
9 Specific Plan, which encompassed the North Avenue interchange and would change City policies to  
10 direct more businesses to the Project area. AR68, 257, 296. Yet even after being apprised of these  
11 plans and despite its extensive knowledge of the Industrial Campus plans (*see* Section II.A, *supra*),  
12 Caltrans still disclaimed any responsibility to address the Project’s role in industrial buildout at these  
13 or other locations. AR60. Caltrans’ knowledge aside, case law is clear that any uncertainty about the  
14 “exact location and extent” of future growth “does not excuse” Caltrans from making best efforts to  
15 evaluate it. *Stanislaus Audubon*, 33 Cal.App.4th at 158; *City of Antioch*, 187 Cal.App.3d at 1337  
16 (requiring preparation of an EIR considering the “most probable development patterns”).

17 Beyond the EIR’s deficiencies as an informational document, Caltrans’ conclusion that the  
18 Project will have *no* growth-induced impacts is not supported by substantial evidence in the record.  
19 *See Cleveland Nat’l Forest Found.*, 17 Cal.App.5th at 444. Caltrans’ acknowledgement of the many  
20 ways in which the Project would be expected to induce development in the Project area, including by  
21 increasing land values and marketability for businesses and removing obstacles to development,  
22 directly undercuts its conclusion that “[t]here are no apparent pressures from the project that would  
23 encourage unplanned growth.” AR60; *see* AR1514, 10897, 11176, 11697; *Sunnyvale W.*  
24 *Neighborhood Assn. v. City of Sunnyvale City Council*, 190 Cal.App.4th 1351, 1383 (2010),  
25 *overruled on other grounds by Neighbors for Smart Rail*, 57 Cal.4th 439 (“[I]t must be recognized  
26 that a roadway infrastructure project aimed at reducing regional traffic and related problems might  
27 still have growth-inducing impacts with indirect adverse impacts on the environment . . .”). It also  
28 ignores the basic economic proposition of an improved interchange: easier access for trucks to

1 highways reduces operating costs to industry, boosting development incentives near the interchanges.  
2 AR15216 (“[A]dding capacity to highways or other major roadways can lead to changes in  
3 residential and employment location decisions that increase travel distance and may eventually spur  
4 commercial or residential growth in the region.”). This is particularly so in the Project area, which is  
5 increasingly delimited for industrial development. AR10794; *see* AR10318 (“Due to its proximity to  
6 SR-99 and SR-41 in the heart of California’s Central Valley, the Industrial Triangle is an extremely  
7 attractive location for private sector investment.”). For all these reasons, Caltrans’ certification of the  
8 EIR must be vacated to allow Caltrans to return to the drawing board and faithfully inform the public  
9 and decisionmakers of the Project’s growth-inducing effects on industrial and commercial buildout.

#### 10 **IV. Caltrans’ Air Quality Significance Determination Was Arbitrary and Irrational**

11 An EIR is inadequate where “[i]n the absence of additional explanation and context, the  
12 public simply has no way to understand what it means for a raw emissions quantity . . . to be  
13 ‘significant.’” *Id.* Accordingly, the CEQA Guidelines encourage agencies to develop and publish  
14 thresholds of significance—meaning an “identifiable quantitative, qualitative or performance level of  
15 a particular environmental effect”—to determine significance of environmental effects. Guidelines  
16 § 15064.7(a)-(b). In the absence of generally applicable standards, an agency may adopt “thresholds  
17 on a case-by-case basis” where supported by substantial evidence, provided it “explain[s] how  
18 compliance with the threshold means that the project’s impacts are less than significant” and does not  
19 exclusively rely on the threshold to determine significance. *Id.* § 15064(b)(2). An EIR that fails to  
20 identify and apply a threshold of significance is insufficient as an informational document. *See King*  
21 *& Gardiner Farms, LLC, v. County of Kern et al.*, 45 Cal.App.5th 814, 884 (2020) (“When an agency  
22 has not published a threshold of significance for a particular impact, it must adopt a threshold of  
23 significance during its evaluation of the project.”); *Lotus v. Dept. of Transp.*, 223 Cal.App.4th 645,  
24 655 (2014) (Caltrans’ “EIR fails to identify any standard of significance, much less to apply one to an  
25 analysis of predictable impacts from the project.”).

26 Here, Caltrans identified what appear to be highly significant increases in air pollution from  
27 the Project—including increases to PM10 emissions at American Avenue by upwards of 854% by  
28 2046 (from 0.024 pounds/day without the Project to between 0.229 and 0.233 pounds per day with

1 the Project) and to PM2.5 pollution by 54% by 2026 over No Build. AR124-25. Yet it applied no  
2 threshold of significance for these air quality impacts at all. Rather, it evaluated significance by  
3 considering a subset of narrative questions from Appendix G to the CEQA Guidelines, which  
4 Caltrans insisted “do not represent thresholds of significance.”<sup>7</sup> AR139 (emphasis added). Caltrans  
5 also appeared to reason that its separate finding that the Project “is not considered a Project of Air  
6 Quality Concern” for certain criteria pollutants under the Clean Air Act means that emissions are  
7 insignificant for CEQA purposes.<sup>8</sup> AR143. Not so. An EIR may not simply assume that the level of  
8 analysis “required in one context . . . will suffice in another.” *Ctr. for Biological Diversity v. Dept. of*  
9 *Fish & Wildlife*, 62 Cal.4th 204, 227 (2015). Rather, in borrowing standards to evaluate air quality  
10 significance, an EIR must close the “analytical gap” through “substantial evidence and reasoned  
11 explanation” to justify its evaluation. *Id.* Caltrans’ sparse approach left the public unable to discern  
12 how the agency determined that the enormous projected rise in particulate matter pollution would not  
13 constitute a significant impact.<sup>9</sup> Caltrans thus contravened CEQA’s mandate that it develop, apply,  
14 and explain its thresholds of significance and reached an arbitrary significance conclusion at odds  
15 with its data. *See King & Gardiner Farms*, 45 Cal.App.5th at 884; *Lotus*, 223 Cal.App.4th at 655.

#### 16 **V. Caltrans’ Cumulative Impacts Analysis was Fatally Defective**

17 A cumulative impacts analysis is a “critical aspect of the EIR.” *LA Unified Sch. Dist. v. City*  
18 *of Los Angeles*, 58 Cal.App.4th 1019, 1025 (1997); *see* Guidelines § 15130. This requirement  
19 recognizes that “the full environmental impact of a project cannot be gauged in a vacuum.” *Cmtys.*  
20 *for a Better Env’t v. Cal. Res. Agency*, 103 Cal.App.4th 98, 114 (2002). “[C]onsideration of the

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23 <sup>7</sup> Adding to the arbitrariness of its approach, Caltrans omitted without explanation any consideration  
24 of question (b) from the Appendix G Environment Checklist Form, which considers whether the  
25 project would “[v]iolate any air quality standard or contribute substantially to an existing or projected  
26 air quality violation.” *Compare* AR141-43 with CEQA Guidelines, App. G at III.

27 <sup>8</sup> Notably, the Federal Highway Administration is currently reconsidering this conclusion on remand  
28 from the federal court. *See* Safdi Decl., Exs. 10-11.

<sup>9</sup> Nor could the public discern whether the Project would produce significant increases in ozone  
pollution or mobile source air toxic emissions from Project operations or of carbon monoxide, sulfur  
dioxide, NOx, volatile organic compounds, or particulate matter during its three years of construction  
since Caltrans never even attempted to quantify these emissions. AR123, 127-29.

1 effects of a project or projects as if no others existed would encourage the piecemeal approval of  
2 several projects that, taken together, could overwhelm the natural environment and disastrous  
3 overburden the man-made infrastructure and vital community services. This would effectively defeat  
4 CEQA’s mandate to review the actual effect of the projects upon the environment.” *Golden Door*  
5 *Props.*, 50 Cal.App.5th at 527 (citations omitted).

6         Accordingly, CEQA requires an EIR to “discuss cumulative impacts of a project when the  
7 project’s incremental effect is cumulatively considerable,” and to describe its basis for concluding  
8 that an incremental effect falls below this threshold. Guidelines § 15130(a). A cumulative impact is  
9 “created as a result of the combination of the project evaluated in the EIR together with other projects  
10 causing related impacts,” *id.* § 15130(a)(1), and constitutes “the change in the environment which  
11 results from the incremental impact of the project when added to other closely related past, present,  
12 and reasonably foreseeable probable future projects,” *id.* § 15355(a). Because cumulative impacts  
13 “can result from individually minor but collectively significant projects taking place over a period of  
14 time,” *id.*, the lead agency must ensure that its cumulative impacts analysis both embraces a complete  
15 scope of related projects and adequately evaluates their additive effects. *Id.* § 15130(b); *see Las*  
16 *Virgenes Homeowners Fed., Inc. v. County of Los Angeles*, 177 Cal.App.3d 300, 306 (1986)  
17 (explaining that “consideration of the effects of a project or projects as if no others existed would  
18 encourage the piecemeal approval of several projects that, taken together, could overwhelm the  
19 natural environment and disastrously overburden the man-made infrastructure and vital community  
20 services”). An agency violates CEQA when it fails to interpret these requirements “to afford the  
21 fullest possible protection to the environment.” *Golden Door Props.*, 50 Cal.App.5th at 503.

22         Caltrans severely flouted its duty to adequately disclose the cumulative impacts of the Project  
23 together with related ones. First, it considered an arbitrary and incomplete range of projects which, in  
24 addition to the Industrial Campus, inexplicably omitted closely related transportation and industrial  
25 projects in the Project vicinity and Route 99 corridor. Second, it neglected the core function of a  
26 cumulative impacts analysis by considering only the Project’s individual contributions to air quality,  
27 noise, transportation, and other environmental effects, rather than considering those contributions in  
28 combination with additive effects of related projects, as CEQA requires. Because these defects go to

1 the informational sufficiency of the EIR and Caltrans’ compliance with CEQA’s procedures, they are  
2 subject to de novo review and amount to a clear abuse of Caltrans’ discretion. *See San Franciscans*  
3 *for Reasonable Growth*, 151 Cal.App.3d at 74; *San Joaquin Raptor*, 27 Cal.App.4th at 741.

4 **A. Caltrans’ cumulative impacts analysis improperly omitted closely related projects.**

5 First, Caltrans arbitrarily limited its cumulative impacts analysis to a strange scattershot of  
6 seven transportation and industrial projects, which inexplicably omitted a broad range of projects in  
7 the Project vicinity with closely related environmental impacts. Caltrans’ scattershot list included two  
8 projects (completion of the Central Pacific Railroad in 1870 and construction of the “golden State  
9 Highway” in 1927) which date back a century or more. AR74. The rest of the list comprises two  
10 nearby distribution centers built in 2018 (an Amazon Fulfillment Center and Ulta Beauty Distribution  
11 Center), the County’s 2000 and 2014 general plans, construction of the California High-Speed Rail  
12 project, and Fresno County Association of Governments’ (FCOG) 2018 Regional Transportation Plan  
13 (RTP). *Id.* Notably absent are closely related transportation plans—particularly the more current 2022  
14 RTP and Caltrans’ Route 99 Corridor Enhancement Master Plan—as well as a broad range of  
15 industrial buildout plans and specific developments. Caltrans’ woefully incomplete cumulative  
16 impact analysis fails CEQA’s bar for “adequacy, completeness, and a good faith effort at full  
17 disclosure.” *Mountain Lion Coal.*, 214 Cal.App.3d at 1052 (quoting Guidelines § 15151).

18 A cumulative impacts analysis must set forth a list of “past, present and reasonably  
19 anticipated future projects producing related or cumulative impacts,” including those outside the  
20 control of the agency, or “a summary of projections contained in an adopted local, regional or  
21 statewide planning document,” such as a regional transportation plan. Guidelines § 15130; *see San*  
22 *Joaquin Raptor*, 27 Cal.App.4th at 740. Here, Caltrans appeared to recognize that it needed to include  
23 past, present, and foreseeable future transportation projects in the region in its analysis and relied on  
24 the 2018 RTP for a summary of projections. AR74. But well before Caltrans approved the Project  
25 EIR in January 2023, FCOG released its 2022 RTP for comment in April 2022 and adopted it on July  
26 28, 2022, superseding the 2018 RTP. AR15897. The 2022 RTP encompasses transportation projects  
27 resulting in air pollution, traffic, and other impacts that would add to those from the Project but were  
28 neither included in the 2018 RTP nor otherwise considered in Caltrans’ cumulative impacts review.

1 One notable example is the Veterans Boulevard Interchange and Corridor Improvement Project,  
2 already under construction as of 2022, which comprises a six-lane arterial roadway in northwest  
3 Fresno, a freeway interchange at Route 99, and other improvements. *Compare* AR15739-50 (2018  
4 RTP) *with* AR15925-26 (2022 RTP). By failing to update its cumulative impact analysis to  
5 incorporate projections in the operative RTP, Caltrans “understate[d] information concerning the  
6 severity and significance of cumulative impacts” and “skew[ed] the decisionmakers’ perspective  
7 concerning the environmental consequences of the project, the necessity for mitigation measures, and  
8 the appropriateness of project approval.” *Mountain Lion Coal.*, 214 Cal.App.3d at 1051.

9 Compounding this flaw, Caltrans excluded its *own* Route 99 corridor planning documents  
10 from its cumulative impacts analysis. Among them is Caltrans’ Route 99 Corridor Enhancement  
11 Master Plan, which evaluates capacity needs and ties together development and expansion plans  
12 along the corridor, including planned expansion of the highway mainline. Safdi Decl., Ex. 3 at 5, 26  
13 (describing plans to expand capacity of Route 99 interchanges), 35 (identifying “objective [] to  
14 complete a 6 lane freeway”). The Enhancement Plan provides a list of 13 capacity-increasing projects  
15 in Fresno County, including plans to widen the highway stretch in South Fresno in conjunction with  
16 Project interchange expansions. *Id.* at 50. Only two of these 13 capacity-increasing projects were  
17 included in the 2018 RTP. *Id.* Other Caltrans transportation planning documents absent from the  
18 cumulative impacts list include Caltrans’ Route 99 Business Plan, designed to “identify Caltrans’ and  
19 the [Metropolitan Planning Organization’s] long-term goals for the Route—and a corresponding list  
20 of categorized projects to achieve those goals.” *Id.*, Ex. 4 at ii. The March 2020 Business Plan Final  
21 Report identifies Caltrans’ priority capacity-increasing projects for the corridor, along with capital  
22 projections. *Id.* at 20, 23, 25. CEQA Guidelines allowed Caltrans to either list the full set of similar  
23 transportation projects in the corridor or rely on planning documents that encompassed them—  
24 including the 2022 RTP and the Master Enhancement Plan and Business Plan. Caltrans did neither.

25 In addition to its deficient list of transportation projects, Caltrans violated CEQA by cherry-  
26 picking an incomplete set of related industrial projects for inclusion in the cumulative impacts

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1 analysis.<sup>10</sup> Why, for instance, would Caltrans include in its analysis the Amazon and Ulta distribution  
2 centers but not the Valley Wide Beverage distribution center, which Caltrans itself identified as  
3 another “major distribution center[.]” located within a mile of the Project? AR3184, 3191. And why  
4 would it limit its analysis to only warehousing and not equally proximate industrial projects that serve  
5 as major sources of overlapping air emissions and truck traffic—nearby stationary sources such as the  
6 Rio Bravo biomass facility, a glass manufacturer in Malaga, and others spread throughout the Project  
7 vicinity? AR3500 (identifying “car crushing facilities, recycling and demolition facilities, truck stops,  
8 and fabrication facilities” in the Project vicinity in scoping comments on the EIR’s cumulative impact  
9 analysis), 4336 (identifying “chrome plating operations, a glass manufacturing plant, poultry  
10 processing plants, a biomass facility, landfills, recycling centers, and more” stationary sources of air  
11 pollution and truck traffic in South Fresno). As with the flawed cumulative impacts analysis in *Kings*  
12 *County Farm Bureau v. City of Hanford*, which omitted “some 116” planned energy projects in the  
13 air basin from its cumulative air quality analysis of a proposed cogeneration plan, Caltrans made it  
14 impossible to determine whether additional information about related industrial projects “would have  
15 revealed a more severe impact.” 221 Cal.App.3d at 723-24.

16 Beyond individual stationary sources, the EIR omitted industrial buildout planning documents  
17 for the Project vicinity even though they were under environmental review concurrently with the EIR.  
18 *See San Franciscans for Reasonable Growth*, 151 Cal.App.3d at 74 (agency erred by omitting “other  
19 closely related projects that were currently under environmental review”); *Golden Door Props.*, 50  
20 Cal.App.5th at 528 (same). In addition to the Industrial Campus, Caltrans excised the South Central  
21 Specific Plan, which the EIR identified as a key industrial area planning document in preparation  
22 since March 2019 designed to remove obstacles to industrial development at the North Avenue  
23 interchange. AR68, 61 (South Central Specific Plan “includes the North Avenue interchange”),  
24 11740 & 12654-56 (Plan maps), 2491 (City webpage). The comment period on the EIR for this

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26 <sup>10</sup> Caltrans’ arbitrary list of projects for its cumulative impact analysis stemmed in part from its  
27 failure “to define the geographic scope of the area affected by the cumulative effect and provide a  
28 reasonable explanation for the geographic limitation used,” as required by CEQA. Guidelines  
§ 15130(b)(3); *see Kings County Farm Bureau*, 221 Cal.App.3d at 721 (cumulative impact analysis  
unlawfully restricted scope to mid-San Joaquin Valley rather than covering entire air basin).

1 closely related project closed only months before Caltrans issued the Project’s Draft EIR. AR68.

2 Caltrans’ error in excluding related capacity-increasing transportation and industrial projects  
3 was much like the error that led the Court of Appeal to invalidate the EIR for a residential  
4 development project in *San Joaquin Raptor*. There, the EIR failed to “list other development projects  
5 currently under consideration or construction in the immediate area” and thus failed to consider their  
6 additive environmental effects with the project. 27 Cal.App.4th at 739. Similarly, Caltrans’ failure to  
7 specifically list related transportation and industrial projects or consider summaries of projections in  
8 the relevant planning documents unlawfully minimized the scope and nature of impacts and rendered  
9 the cumulative impacts analysis inadequate as a matter of law. *See id.* at 741.

10 **B. Caltrans failed to properly analyze the Project’s cumulative impacts.**

11 Caltrans also failed to conduct a meaningful cumulative impacts analysis even for the sources  
12 it did include. The entirety of the EIR’s cumulative impacts analysis comprises a single paragraph  
13 with no facts, data, or discussion about combined environmental effects of the related listed projects;  
14 rather, the EIR inscrutably concludes without explanation that the “[P]roject would not present a  
15 considerable contribution to a negative cumulative impact.” AR75; *see* AR162 (“The impacts from  
16 the individual project are not cumulatively considerable”). Nor does the EIR provide data about the  
17 related projects’ contributions to environmental effects in its discussion of visual impacts (AR97),  
18 hazardous materials (AR106), or air pollution (AR142), and contains *no discussion at all* of  
19 cumulative contributions to noise (AR154), traffic (AR83-94, 157-59), or any other type of impact.

20 Caltrans’ vacuous cumulative impacts analysis amounts to a clear and prejudicial abuse of its  
21 discretion. First, Caltrans failed to summarize the “expected environmental effects to be produced by  
22 those projects” on its cumulative impact list, including with “specific reference to additional  
23 information stating where that information is available,” and to identify specific “facts and analysis  
24 supporting [its] conclusions.” Guidelines §§ 15130(a)(2), (b)(4). In this way, Caltrans failed to  
25 disclose “the analytic route [it] traveled from evidence to action,” and thereby prevented “informed  
26 decisionmaking.” *Laurel Heights*, 47 Cal.3d at 404. Second, Caltrans subverted the purpose of a  
27 cumulative impacts analysis by focusing on the Project’s individual contributions to a problem rather  
28 than considering those contributions together with the additive effects of related projects. That is,

1 Caltrans improperly focused on “the individual project’s relative effects and omitted facts relevant to  
2 an analysis of the collective effect this and other sources will have upon air quality” and other  
3 categories of environmental effects. *Kings County Farm Bureau*, 221 Cal.App.3d at 721.

4 The flaw in Caltrans’ approach is particularly apparent in its analysis of the Project’s  
5 cumulative effects on air quality. Although acknowledging that the Project area is in nonattainment  
6 for PM2.5, PM10, and ozone, Caltrans concluded that the Project “would not result in a cumulatively  
7 considerable net increase of any criteria pollutants.” AR143. By way of reasoning, Caltrans stated  
8 only that the Project “is not considered a Project of Air Quality Concern and is modeled in the 2018  
9 [RTP].” AR143. Even if the record supported Caltrans’ conclusion that the Project is not itself a  
10 significant source of air pollution—which, as explained above, it does not (*see* Section IV, *supra*)—  
11 Caltrans erred by focusing on the Project’s incremental contribution to a significant non-attainment  
12 problem rather than considering whether the Project together with related transportation and  
13 industrial projects creates or exacerbates a cumulatively considerable air pollution problem. *See*  
14 *Kings County Farm Bureau*, 221 Cal.App.3d at 721. Caltrans’ analysis is similar to that rejected by  
15 the Court of Appeal in *Kings County Farm Bureau*, in which the court faulted the agency for  
16 employing a “‘ratio’ theory” under which “the greater the overall problem, the less significance a  
17 project has in a cumulative impact analysis.” *Id.* Such an approach “allows the approval of projects  
18 which, when taken in isolation, appear insignificant, but when viewed together, appear startling.” *Id.*

19 Likewise, Caltrans’ analyses of noise and transportation impacts focus solely on the  
20 individual Project’s contributions without even attempting to analyze whether they take on  
21 significance when considered together with the noise and traffic contributed by related projects. *See*  
22 AR154, 157. This was so despite testimony presented by Petitioners about significantly increased car  
23 and truck traffic from the Amazon and Ulta Beauty warehouses and “extremely loud” noise they  
24 contribute to the acoustic environment in the Project vicinity. AR2540-41 (declaration by South  
25 Fresno resident attesting that “there is traffic traveling to the facilities 24 hours a day, seven days a  
26 week,” which is “so loud sometimes that it sounds like someone is knocking at my door”). As with  
27 air quality, “the relevant issue to be addressed in the EIR . . . is not the relative amount of traffic  
28 noise resulting from the project when compared to existing traffic noise, but whether any additional

1 amount of traffic noise should be considered significant in light of the serious nature of the traffic  
2 noise problem already existing” in the area impacted directly or indirectly by the Project. *LA Unified*  
3 *Sch. Dist.*, 58 Cal.App.4th at 1025. Because the EIR does not disclose the answer to this question, the  
4 information and analysis it provides regarding noise, transportation, and other potentially cumulative  
5 considerable impacts is inadequate as a matter of law. *See id.*

6 **VI. Caltrans’ Use of Congestion to Evaluate Transportation Impacts Violated Legislative**  
7 **Directive and its Own Policies While Reaching Implausible Significance Conclusions**

8 In 2013, the Legislature adopted Senate Bill 743 which solidified vehicle-miles-traveled  
9 (VMT) as CEQA’s transportation-impact measure instead of the previously used level-of-service  
10 (LOS) metric, which focused on congestion impacts. This shift recognized that reliance on LOS can  
11 counterproductively incentivize mitigation that expands roadway capacity and induce more vehicular  
12 use, thereby accelerating greenhouse gas emissions and localized air pollution. *See Pub. Res. Code*  
13 *§ 21099(b)*. VMT instead evaluates induced travel, or “the amount and distance of automobile travel  
14 attributable to a project.” Guidelines § 15064.3(a).

15 Effective July 1, 2020, “automobile delay . . . shall not be considered a significant impact.” *Id.*  
16 For “roadway capacity projects,” however, agencies retain “discretion to determine the appropriate  
17 measure of transportation impact,” but they must apply that discretion “*consistent with CEQA and*  
18 *other applicable requirements.*” *Id.* § 15064.3(b)(2) (emphasis added). Caltrans failed to do so here,  
19 instead stubbornly employing the discarded LOS measure. Doubling down on its error, Caltrans  
20 reached an insignificance conclusion directly contradicted by its own analysis, which shows  
21 congestion degrading to the worst possible levels at all evaluated intersections because of the Project.  
22 Because Caltrans contravened CEQA’s procedural requirements and reached a conclusion lacking  
23 any evidentiary support, its EIR must be decertified. *See Sierra Club*, 6 Cal.5th at 512, 516.

24 **A. Caltrans’ failure to analyze VMT flouts CEQA Guidelines and its own policies.**

25 Caltrans abused its discretion in using LOS to evaluate the Project’s transportation impacts.  
26 The Office of Planning and Research (OPR), which developed Guidelines section 15064.3  
27 implementing Senate Bill 743 together with the California Natural Resources Agency (CNRA) (Pub.  
28 Res. Code § 21099(b)(1)), stated in its 2018 Technical Advisory on Evaluating Transportation

1 Impacts that “[i]f a project would likely lead to a measurable and substantial increase in vehicle  
2 travel, the lead agency should conduct an analysis assessing the amount of vehicle travel the project  
3 will induce.” AR2791. By Caltrans’ own metrics, the Project would have exactly this effect. By 2026,  
4 it would increase average *daily* traffic at the American Avenue interchange by 2,400 vehicles over  
5 the No Build alternative (a 42% increase), including roughly 480 more average daily truck trips (a  
6 94% increase in truck traffic). AR89. The gap grows wider over time: By 2046, traffic at American  
7 Avenue will increase by 3,000 daily trips, including 600 daily truck trips, over No Build. *Id.* Caltrans  
8 claimed in a related Air Quality Conformity Analysis that decreases in North Avenue interchange  
9 traffic would more than offset increases at American Avenue, but its math is wrong. AR1595. By  
10 Caltrans’ own numbers, traffic at North Avenue will decrease by only 1,000 daily trips in 2026, far  
11 outstripped by the addition of 2,400 daily trips to American Avenue. AR1593-94.

12         Anticipating these results, OPR’s guidance explains that projects like this one, which would  
13 add “lanes through grade-separated interchanges,” can be expected to “lead to a measurable and  
14 substantial increase in vehicle travel.” AR2792; *see* AR1592 (“Increases in truck traffic at the  
15 intersections are to be expected, as the improvements will be specifically designed to accommodate  
16 such vehicles.”) For such projects “that increase roadway capacity, lead agencies can evaluate  
17 induced travel quantitatively by applying the results of existing studies that examine the magnitude of  
18 the increase of VMT resulting from a given increase in lane miles.” AR2795. Caltrans did not.

19         CNRA’s Final Statement of Reasons for Guidelines section 15064.3 further reveals that the  
20 “discretion” provided to transportation agencies was not intended to create a blanket exception to the  
21 VMT requirement. Rather, CNRA intended to extend limited flexibility to depart from VMT “where  
22 methods may not yet exist or are still under development for assessing VMT impacts.” Safdi Decl.,  
23 Ex. 8 at 79. By contrast, “where methods exist, measurement of induced travel needs to be  
24 undertaken in order to assess greenhouse gas emissions impacts, impacts from air pollutant  
25 emissions, energy impacts, and noise impacts, and transportation impacts described by any metric.”  
26 *Id.* Here, Caltrans released two guidance documents in 2020—a Transportation Analyses Framework  
27 and Transportation Analysis under CEQA—detailing specific methods to evaluate the degree to  
28 which capacity-increasing projects induce travel and make CEQA significance determinations. *Id.*,

1 Exs. 5-7; AR2761, 2763-65. Caltrans abused its discretion by not applying its own methods.

2 Caltrans also flouted its own policies controlling its discretion for transportation analyses. In  
3 September 2020, Caltrans issued a Policy governing its CEQA analyses for projects on the State  
4 Highway System (SHS). AR2761. The Policy formalized Caltrans' position that "VMT is the most  
5 appropriate measure of transportation impacts under CEQA for capacity-increasing projects on the  
6 SHS" and clarified that "determination of significance of a VMT impact will require a supporting  
7 induced travel analysis for capacity-increasing transportation projects on the [SHS] when Caltrans is  
8 the lead agency . . . ." *Id.* Under the Policy, "[a]ll projects on the SHS that reach Caltrans' Milestone  
9 020. . . on or after September 15, 2020, will include a VMT-based transportation impact significance  
10 determination in the draft environmental document." AR2762. For projects that reached that  
11 milestone before September 15, 2020, Caltrans' April 13, 2020 Implementation Timing  
12 Memorandum ("Timing Memorandum") controls whether VMT is to be used as the metric for  
13 transportation impacts. *Id.* Under the Timing Memorandum, a VMT analysis will be conducted if: (1)  
14 "Project scope includes a new alignment and/or additional lane miles and project location is in a  
15 corridor/area with existing or projected congestion," *or* (2) if there is "[a] high level of public and  
16 stakeholder interest in the project." AR2764; *see* AR2772 (clarifying that "*either* of these factors"  
17 requires a VMT analysis).

18 The EIR is explicit that Caltrans relied on these Policies in declining to conduct a VMT  
19 analysis, but it neither justified their application nor faithfully applied them.<sup>11</sup> AR86-87, 305.  
20 Assuming as the EIR insists that the Timing Memorandum applies, both of its criteria dictated a  
21 VMT analysis. With respect to the first criterion, Caltrans conceded in internal documents that the  
22 Project adds "new ramp alignments" and is in an "area with congestion." AR3566; *see* AR36-39  
23 (recording heavy congestion), 39 (recording that "[a]ll build alternatives proposed at North Avenue  
24 would include the realignment" of lanes), *id.* (describing addition of ramps, lanes, and four-lane  
25 overcrossing), AR3526 (classifying "the project as 'capacity' increasing due to the addition of ramp  
26 capacity"). As to the second, South Fresno residents, community groups, and the regional Air District  
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28 <sup>11</sup> The EIR, for instance, nowhere explained when Milestone 020 was triggered for the Project.

1 submitted extensive scoping and EIR comments demonstrating a high level of public and stakeholder  
2 interest. AR2512, 2592-606, 3486-3503 (scoping comments). Caltrans conceded as much in internal  
3 documents, noting “two potential environmental justice organizations that would take potential legal  
4 action” if it forewent a VMT analysis. AR3566; *see id.* (identifying “the potential of sections of the  
5 Environmental Document to be successfully legally challenged”). For these reasons, Caltrans initially  
6 determined that under the Timing Memorandum, “VMT is required for this project.” AR3567; *see*  
7 3529-36. It reversed course not because of new information changing its assessment of the governing  
8 criteria,<sup>12</sup> but because it “[didn’t] want to take any action that would slow down the schedule”  
9 (AR3528), because of “the preference of project sponsors” to use LOS (AR3556), and because “[a]  
10 delay to the Environmental Document may put potential future funding at risk” (AR3563). *See*  
11 *generally* AR11726 (VMT exemption concurrence). Reliance on such ad hoc considerations other  
12 than criteria imposed by law is the hallmark of arbitrary and capricious decision-making. *See*  
13 *generally Am. Coatings Assn. v. S. Coast Air Quality Mgmt. Dist.*, 54 Cal.4th 446, 460 (2012).

14 **B. Caltrans erred in concluding that there is no significant impact on congestion.**

15 Even if LOS were an available metric, Caltrans’ conclusion that the Project would not result  
16 in any significant impact on congestion conflicts with substantial evidence in the record, including  
17 Caltrans’ own congestion studies. At present, the North and American Avenue interchanges are  
18 operating at LOS grades C and D during travel hours, where higher grades signify greater congestion.  
19 The EIR called these “acceptable levels of service.” AR93. It then reasoned that the Project will  
20 prevent deterioration in LOS over time so that by 2046 “with construction of the proposed  
21 improvements, the intersections will operate at levels of service ‘A,’ ‘B,’ and ‘C.’” *Id.* Caltrans’ LOS  
22 studies show exactly the opposite. According to Caltrans’ Air Quality Report, under every Project  
23 build alternative, every North Avenue ramp will be operating at an LOS of “F”—the worst possible  
24 congestion grade—by 2046 (AR1471-72), while six of ten American Avenue ramps will be operating  
25 at an LOS of “F” during morning and evening peak hours and two more at an LOS of “F” half the  
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27 \_\_\_\_\_  
28 <sup>12</sup> Caltrans recognized it had methods at hand to evaluate VMT, and indeed did so to produce its air  
quality analysis, while continuing to ignore VMT for transportation impacts. *See* AR3528, 1470-73.

1 time (AR1473). Because the EIR “suffers from both lack of substantial evidence to support its key  
2 factual conclusions and legally defective procedures” to evaluate transportation impacts, it must be  
3 decertified. *Vineyard Area Citizens for Responsible Growth*, 40 Cal.4th at 444-45.

#### 4 **VII. The EIR’s Mitigation Measures for Greenhouse Gas Emissions are Flawed**

5 The EIR concluded that the Project would significantly increase greenhouse gas emissions: by  
6 3,414 tons per year at the American Avenue interchange and 4,281 tons per year at North Avenue by  
7 2046 compared to baseline. AR 148, 178. Consequently, CEQA required Caltrans to “adopt feasible  
8 mitigation measures or project alternatives to reduce the effect to insignificance.” *Ctr. for Biological*  
9 *Diversity*, 62 Cal.4th at 231. Instead, Caltrans adopted fourteen vaguely defined mitigation measures  
10 without quantifying their benefits, many of which are unenforceable and unlawfully defer developing  
11 the details of mitigation. They are also, by Caltrans’ admission, incapable of offsetting the Project’s  
12 greenhouse gas impacts. Yet Caltrans never considered meaningful alternatives to avoid the problem.

13 CEQA forbids an agency from approving a project unless it finds that adopted measures will  
14 fully mitigate adverse effects, or that mitigation is infeasible but overriding concerns support  
15 approval. Pub. Res. Code § 21081. “Mitigation measures must be fully enforceable through permit  
16 conditions, agreements, or other legally binding instruments,” Guidelines § 15126.4(a)(2), and their  
17 “[f]ormulation . . . shall not be deferred until some future time,” *id.* § 15126.4(a)(1)(B).  
18 “Impermissible deferral of mitigation measures occurs when an EIR puts off analysis or orders a  
19 report without either setting standards or demonstrating how the impact can be mitigated in the  
20 manner described in the EIR.” *See Pres. Wild Santee v. City of Santee*, 210 Cal.App.4th 260, 281-82  
21 (2012) (citation omitted). An agency flouts CEQA when it fails to provide “facts and analysis”  
22 demonstrating a measure’s specific quantifiable impact on reducing adverse effects. *Sierra Club*, 6  
23 Cal.5th at 523. “Even when a project’s benefits outweigh its unmitigated effects, agencies are still  
24 required to implement all mitigation measures unless those measures are truly infeasible.” *Id.* at 524-  
25 25; *see King & Gardiner Farms*, 45 Cal.App.5th at 852 (“[A]dopting a statement of overriding  
26 considerations does not negate the statutory obligation to implement feasible mitigation measures.”).

27 Caltrans’ fourteen adopted mitigation measures will not quantifiably benefit Project  
28 greenhouse gas emissions. As just a snapshot: Measure GH-1 provides for construction of a sidewalk

1 near Orange Center Elementary School but fails to explain how the section of sidewalk would  
2 meaningfully reduce emissions. AR238. It calls for installing a vegetative barrier but fails to specify  
3 its size, location, or any other details to allow for quantification of benefits and enforcement. *Id.*; *see*  
4 *Cmtys. for a Better Env't*, 184 Cal.App.4th at 92 (rejecting reliance on “tentative plans for future  
5 mitigation”). Measure GH-4 calls for “Complete Street features” like sidewalks, crosswalks, and  
6 signalization but lacks specifics. AR239. Measure GH-9, calling for use of non-potable water during  
7 construction, fails even to attempt to connect water use to emissions reductions. *Id.*; *see Gray*, 167  
8 Cal.App.4th at 1118 (disapproving mitigation measure that called for use of bottled water because  
9 deeming it “an effective mitigation measure” “defies common sense”). Measure GH-11 calls for use  
10 of alternative bridge construction techniques to reduce construction windows but without any detail  
11 or enforcement mechanisms. AR240. Measure GH-13 calls for implementing a traffic management  
12 plan but fails to explain why it was implausible to timely formulate the plan during environmental  
13 review and fails to adopt specific performance standards or identify actions to achieve them. AR240;  
14 Guidelines § 15126.4(a)(1)(B). Measure GH-14 calls for EPA Tier 4 rated construction equipment  
15 but without any mechanism to make the requirement legally binding and enforceable. AR240.


16         Precisely as in *Communities for a Better Environment v. Richmond*, “[n]o effort is made to  
17 calculate what, if any, reductions in the Project’s anticipated greenhouse gas emission would result  
18 from each of these vaguely described future mitigation measures.” 184 Cal.App.4th at 93. The  
19 measures are “undefined, untested and of unknown efficacy,” and “[t]he only criteria for ‘success’”  
20 of the measures is the “subjective judgment” of Caltrans. *Id.* Indeed, Caltrans admits it could identify  
21 no “methods to accurately measure whether the project feature and measures would reduce emissions  
22 enough to mitigate the project impacts.” AR179. Worse still, Caltrans failed to consider measures to  
23 reduce vehicular use, like expanding public transit, as well as Project alternatives that could avoid  
24 greenhouse gas emissions entirely, such as limiting interchange capacity. *See* Guidelines § 15126.6  
25 (requiring an EIR to evaluate “a range of reasonable alternatives to the project . . . that would feasibly  
26 attain most of the basic objectives of the project but would avoid or substantially lessen any of the  
27 significant effects”). Caltrans’ failures to seriously consider all possible measures to reduce or avoid  
28 greenhouse gas emissions amounts to a prejudicial abuse of discretion. *Sierra Club*, 6 Cal.5th at 526.

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**CONCLUSION**

For the foregoing reasons, Petitioners respectfully request that the Court issue a peremptory writ declaring the EIR inconsistent with CEQA and setting aside Caltrans' Project approval.

Dated: August 22, 2025

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