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7
8 Attorneys for Center for Biological Diversity

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF MONTEREY**

11 CENTER FOR BIOLOGICAL
DIVERSITY and LANDWATCH
12 MONTEREY COUNTY

13 Petitioners,

14 v.

15 CITY OF SEASIDE; CITY COUNCIL OF
THE CITY OF SEASIDE; and DOES 1
16 through 20, inclusive,

17 Respondents.

Case No. 24CV002483

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

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

1 **INTRODUCTION**

2 1. This action challenges the May 16, 2024 decision of City of Seaside, California
3 and its City Council (together, “Respondents”) to approve the Seaside General Plan Update
4 2040 (“Project”) and certify an Environmental Impact Report (“EIR”) for the Project (State
5 Clearinghouse Number 2017071021).

6 2. The Project is a comprehensive update of the City’s 2004 General Plan and
7 intended to establish the community’s “vision” for future development of the City through 2040.
8 Pursuant to Government Code Section 65302, the State of California requires that General Plans
9 contain specific elements, including Land Use, Circulation, Housing, Conservation, Open Space,
10 Noise, Safety, and Environmental Justice. As part of the general plan process, the City updated
11 the General Plan’s goals and policies and updated the document’s Land Use Map.

12 3. The importance of general plans in shaping long-term growth cannot be
13 overstated. As a community’s “constitution for future development” the general plan is located
14 at the top of the hierarchy of local government law regulating land use. (*DeVita v. County of*
15 *Napa* (1995) 9 Cal.4th 763, 773.) Subsequent land use decisions, including, zoning ordinances,
16 subdivision maps, development agreements and all other land use plans must be consistent with
17 a community’s general plan. Accordingly, “[t]he propriety of virtually any local decision
18 affecting land use and development depends upon consistency with the applicable general plan.”
19 (*Citizens of Goleta Valley v. County of Santa Barbara* (1990) 52 Cal.3d 553, 570.) Ensuring
20 consistency between a general plan and all derivative land use decisions is the keystone of
21 regional planning in California. It is the “linchpin of California’s land use and development
22 laws” that “infuses the concept of planned growth with the force of law.” (FUTURE, 62

1 Cal.App.4th at p. 1336.) The only way to alter a general plan requirement is to amend the
2 general plan itself.

3 4. Along with the Project, the City circulated a Draft EIR that purported to disclose,
4 analyze, and mitigate the Project’s significant environmental impacts. LandWatch Monterey
5 County and the Center for Biological Diversity (the “Center”) raised concerns throughout the
6 administrative process, explaining that the Project will have significant environmental impacts
7 on, among other things, biological resources (including special status species), greenhouse gas
8 emissions, and water supply. Yet, Respondents failed to disclose or adequately analyze these
9 impacts, failed to identify and adopt feasible mitigation measures to reduce them, and failed to
10 consider reasonable alternatives to the Project.

11 5. Of particular concern to Petitioners was the City’s decision to designate the
12 “Seaside East” area for development. The undeveloped 635-acre site—formerly a part of the
13 Fort Ord military base—is home to numerous special-status plant and animal species, and boasts
14 a wealth of central maritime chaparral habitat, which is increasingly disappearing in California.
15 Although the City’s Housing Element did not include this site as part of its housing unit
16 inventory, the Project nonetheless proposed the development of 995 residential units, and over a
17 million square feet of commercial space on the biologically sensitive site. Seaside East is not
18 required for economic development since there is ample infill space available for development
19 for employment land uses. And the unavoidable impacts to biological resources and the lack of a
20 water supply render development of Seaside East infeasible. What’s more, the EIR
21 impermissibly relied primarily on an outdated plan—a Habitat Conservation Plan that was
22

1 developed by different agencies, for a different purpose, and was never finalized or adopted—as
2 the chief mitigation for the significant impacts from developing the Seaside East area.

3 6. Additionally, though it acknowledged that the Project’s construction,
4 transportation, and growth would result in potentially significant greenhouse gas emissions, the
5 EIR made no attempt to quantify these emissions, prepare an emissions inventory, or evaluate
6 them against a baseline of existing emissions as is standard practice in nearly every jurisdiction
7 in California. Instead, the City simply averred that it would address these issues later, when it
8 adopts a “Climate Action Plan” or similar plan.

9 7. The EIR also failed to grapple with the lack of an available water supply for future
10 development in the Seaside East area or consider the impacts of supplying the Project’s water
11 needs.

12 8. Compounding the above problems, the EIR relied on erroneous and conflicting
13 projections of growth from the Project, resulting in an inaccurate description of the Project that
14 misled the public and distorted the EIR’s analysis of several other impacts.

15 9. Notwithstanding the numerous and fatal defects in the City’s environmental
16 review identified by Petitioners, the City approved the Project and certified the EIR against
17 Petitioners’ repeated objections. Petitioners bring this lawsuit to ensure that the City fully
18 discloses, analyzes, and mitigates the significant environmental impacts before moving forward
19 with its plan for extensive growth over the coming decades.

20 **THE PARTIES**

21 10. Petitioner CENTER FOR BIOLOGICAL DIVERSITY is a non-profit
22 conservation organization dedicated to the protection of native species and their habitats through

1 science, policy, and environmental law. The Center has approximately 81,000 members
2 worldwide, including members who reside within communities in the vicinity of the Project.
3 The Center has worked for many years to protect imperiled plants and wildlife, open space, air
4 and water quality, and the overall quality of life for people in Monterey County and the City of
5 Seaside where the Project is proposed. Members of the Center will be directly and adversely
6 affected by the approval and implementation of the Project.

7 11. Petitioner LANDWATCH MONTEREY COUNTY (“LandWatch”) is a California
8 non-profit public benefit corporation exempt from federal income taxation under section
9 501(c)(3) of the U.S. Internal Revenue Code. Its principal place of business is Salinas,
10 California. LandWatch’s organizational purpose is to promote sound land use planning and
11 legislation at the city, county, and regional levels, to combat urban sprawl, and to promote
12 livability in the region’s cities and towns, through public policy development, advocacy, and
13 education. LandWatch is dedicated to preserving economic vitality, high agricultural
14 productivity, and environmental health in Monterey County by encouraging effective public
15 participation in the land use planning process. LandWatch’s supporters., contributors, directors,
16 and staff include residents, taxpayers, and electors in Monterey County who currently enjoy the
17 multitude of residential, vocational, aesthetic, recreational, and health benefits stemming from
18 the current state of the City of Seaside and the area of the Project.

19 12. Respondent CITY OF SEASIDE (the “City”), a political subdivision of the State
20 of California, is responsible for regulating and controlling land use within the jurisdiction of the
21 City, including implementing and complying with the provisions of CEQA and the State
22 Planning and Zoning Law. The City is the “lead agency” for the Project for the purposes of
23

1 Public Resources Code Section 21067, with principal responsibility for conducting
2 environmental review of the Project. The City has a duty to comply with CEQA and other state
3 laws.

4 13. Respondent CITY COUNCIL OF THE CITY OF SEASIDE (the “City Council”)
5 is the duly elected decision-making body of the City. As the decision-making body, the City is
6 responsible for adopting the necessary resolutions, ordinances, or approvals for the Project, and
7 for ensuring that the City has conducted an adequate and proper review of the Project’s
8 environmental impacts under CEQA prior to doing so.

9 14. Petitioners do not know the true names and capacities, whether individual,
10 corporate, associate, or otherwise, of respondents DOES 1 through 20, inclusive, and therefore
11 sues said respondents under fictitious names. Petitioners will amend this Petition to show their
12 true names and capacities when the same have been ascertained. Each of the respondents is the
13 agent and/or employee of Respondents, and each performed acts on which this action is based
14 within the course and scope of such respondent’s agency and/or employment.

15 **JURISDICTION AND VENUE**

16 15. This Court has jurisdiction to issue a writ of mandate to set aside Respondents’
17 decision to approve the Project under California Code of Civil Procedure section 1094.5 (or
18 alternatively, section 1085) and Public Resources Code section 21168.5 (or alternatively, section
19 21168) and section 21168.9.

20 16. Venue for this action properly lies in the Monterey County Superior Court because
21 Respondents and the proposed site of the Project are located in the County. Many of the
22 significant environmental impacts from the Project that are the subject of this lawsuit would

1 occur in the County, and the Project would affect the interests of County residents, including
2 members, supporters, and contributors of the Center and LandWatch.

3 17. Respondents have taken final agency actions with respect to approving the Project
4 and certifying the EIR. Respondents had a duty to comply with applicable state laws, including
5 but not limited to CEQA, prior to undertaking the discretionary approvals at issue in this
6 lawsuit.

7 18. Petitioners have complied with the requirements of Public Resources Code section
8 21167.5 by serving a written notice of Petitioners' intention to commence this action on
9 Respondents on June 13, 2024. A copy of the written notice and proof of service is attached
10 hereto as Exhibit A.

11 19. Petitioner has complied with the requirements of Public Resources Code section
12 21167.6 by concurrently notifying Respondents of Petitioners' request to prepare the record of
13 administrative proceedings relating to this action. A copy of Petitioners' Election to Prepare
14 Administrative Record of Proceedings is attached hereto as Exhibit B.

15 20. Petitioners have complied with Public Resources Code section 21167.7 and Code
16 of Civil Procedure section 388 by mailing the Attorney General of the State of California with a
17 copy of the Petition on June 13, 2024. Attached hereto as Exhibit C is the true and correct copy
18 of the letter transmitting the Petition to the Attorney General.

19 21. Petitioners have performed any and all conditions precedent to filing this instant
20 action and have exhausted any and all administrative remedies to the extent required by law,
21 including, but not limited to, timely submitting extensive comments objecting to the approval of
22 the Project and identifying in writing to Respondents the deficiencies in Respondents'

1 environmental review for the Project on December 7, 2023; April 9, 2024; April 10, 2024; May
2 15, 2024; and May 16, 2024.

3 22. This Petition is timely filed in accordance with Public Resources Code section
4 21167 and CEQA Guidelines section 15112.

5 **GENERAL ALLEGATIONS**

6 23. On or about July 12, 2017, the City issued a Notice of Preparation (“NOP”) for the
7 Project, in which it notified public agencies and interested individuals that, as a lead agency, it
8 would be preparing a Draft EIR to analyze the proposed Project’s potentially significant
9 environmental impacts.

10 24. On or about October 24, 2023, the City published a Notice of Completion and
11 Environmental Document Transmittal for the Draft EIR for the Project, circulated the Draft EIR
12 for public review and comment.

13 25. Public agencies and environmental organizations, including Petitioner LandWatch,
14 submitted extensive comments on the Draft EIR. These comments pointed out serious
15 deficiencies and shortcomings in the Draft EIR. For example, commenters explained that the
16 Project would have significant impacts on biological resources (including special status species),
17 greenhouse gas emissions, and water supplies, and that the EIR’s disclosure, analysis, and
18 proposed mitigation of those impacts was woefully inadequate.

19 26. On December 7, 2023, before the close of the comment period on the Draft EIR,
20 Petitioner LandWatch submitted a letter to the City with written comments on the Draft EIR.
21 The comments explained, among other things, that the Draft EIR failed to comply with CEQA
22 in the following respects:

- 1 a. The Draft EIR’s Project Description failed to describe the whole of the proposed
2 action and failed to accurately describe the nature and extent of the project
3 approvals being considered as a part of the Project, including by providing
4 unjustified and inconsistent projections of the growth attributable to the Project;
- 5 b. The Draft EIR’s disclosure, analysis of, and mitigation for impacts to biological
6 resources was inadequate because, *inter alia*, it failed to properly disclose,
7 evaluate, avoid and/or mitigate significant impacts to biological resources
8 including special status species, sensitive habitat, and wildlife movement,
9 especially in the Seaside East area;
- 10 c. The Draft EIR’s analysis of and mitigation for the Project’s greenhouse gas
11 impacts was inadequate because, *inter alia*, the Draft EIR failed to provide
12 adequate information regarding the Project’s emissions and purported reductions
13 from mitigation, the proposed mitigation measures were improperly deferred,
14 ineffective, and unenforceable, and the Draft EIR failed to consider all feasible
15 mitigation;
- 16 d. The Draft EIR’s analysis of and mitigation for the Project’s water supply impacts
17 were inadequate because, *inter alia*, the Draft EIR failed to disclose or analyze the
18 full extent of the Project’s impacts to water supply, including the impacts of
19 providing water supplies to the Project from existing or future sources;
- 20 e. The Draft EIR failed to disclose, analyze or mitigate the Project’s cumulative
21 impacts; and
22

1 f. The Draft EIR’s analysis of alternatives to the Project was inadequate because,
2 *inter alia*, the Draft EIR failed to consider a reasonable range of alternatives,
3 failed to evaluate feasible alternatives that would reduce the Project’s significant
4 impacts, and improperly rejected alternatives.

5 27. On or about December 11, 2023, before the close of the comment period on the
6 Draft EIR, the California Native Plant Society, a nonprofit conservation organization, submitted
7 a letter to the City with written comments on the Draft EIR. The California Native Plant Society
8 explained that the EIR failed to properly disclose, analyze, or mitigate the Project’s direct and
9 indirect impacts to biological resources, including native plants and native plant communities.

10 28. On or about December 26, 2023, the California Department of Fish and Wildlife
11 submitted a letter to the City with written comments on the Draft EIR. The letter expressed
12 CDFW’s concern over the Draft EIR’s inadequate disclosure, analysis, and mitigation for the
13 Project’s significant impacts to biological resources, including, *inter alia*, special status species,
14 sensitive habitat, and wildlife movement, especially in the Seaside East area. The letter stated
15 that CDFW “does not agree with the DEIR conclusions stating that development of undeveloped
16 former Fort Ord lands would have less than significant impact to sensitive plant communities
17 and special status species if all mitigation measures are properly applied.”

18 29. On or about April 5, 2024, the City released to the public a Final EIR for the
19 Project, which included text changes to the Draft EIR and the City’s responses to public
20 comments on the Draft EIR. The vast majority of the defects in the Draft EIR identified by
21 Petitioners and other commenters persisted in the Final EIR.

- b. The EIR’s inconsistent growth projections for the Project undermined and rendered inadequate its analysis of Vehicle Miles Traveled (“VMT”), air quality, noise and contaminants, and water supply impacts;
- c. The EIR’s analysis of alternatives remained inadequate;
- d. The EIR’s disclosure, analysis, and mitigation of water supply impacts remained inadequate; and
- e. The EIR’s analysis of cumulative impacts remained inadequate.

33. In a letter submitted to the City on May 15, 2024, before the hearing to consider the Project and certify the Final EIR, the Center described in detail deficiencies remaining in the Final EIR, commenting that the Final EIR failed to comply with CEQA in at least the following respects:

- a. The EIR’s analysis of and mitigation for impacts to biological resources remained inadequate because, *inter alia*, it failed to adequately disclose, evaluate, avoid and/or mitigate significant impacts to biological resources including special status species, wildlife movement, and sensitive habitat;
- b. The EIR’s analysis of and mitigation for the Project’s greenhouse gas impacts remained inadequate because, *inter alia*, the EIR failed to provide adequate information regarding the Project’s emissions and purported reductions from mitigation, the proposed mitigation measures were improperly deferred and unenforceable, and the EIR failed to consider all feasible mitigation; and
- c. The EIR’s analysis of and mitigation for the Project’s impacts to water quality and hydrology remained inadequate;

- 1 d. The EIR’s analysis of and mitigation for the Project’s impacts to water supply
2 remained inadequate;
- 3 e. The EIR’s analysis of and mitigation for the Project’s wildfire-related impacts
4 remained inadequate because, *inter alia*, the EIR failed to disclose the increased
5 risk of wildfire resulting from the Project, failed to disclose the full extent of the
6 Project’s wildfire-related impacts, failed to adequately mitigate the Project’s
7 wildfire-related impacts, failed to disclose existing wildfire and safety conditions
8 on the Project site, and failed to consider the Project’s impact on the ability of
9 residents and those in the vicinity of the Project site to evacuate safely in the event
10 of a wildfire; and
- 11 f. The EIR failed to disclose, analyze or mitigate the Project’s cumulative impacts.

12 The Center requested that the City revise the EIR to correct the deficiencies and recirculate the
13 revised EIR for public review and comment.

14 34. On May 16, 2024, the City Council held its public hearing to consider the Project.
15 At the hearing, representatives of Petitioners the Center and LandWatch again submitted
16 testimony requesting that the City not approve the Project until it had corrected the deficiencies
17 in the EIR and complied with CEQA’s requirements for environmental review.

18 35. At the conclusion of the May 16, 2024 hearing, the City Council voted to approve
19 the Project, adopted findings in support of the Project approval, certified the EIR, and adopted
20 an “Errata” sheet to the EIR that removed a reference to the HCP. During the hearing,
21 Councilmember Miller voted against certifying the EIR, stating that the City should prepare a
22 Climate Action Plan before moving forward.

1 The EIR must provide sufficient environmental analysis such that the decisionmakers can
2 intelligently and fully consider environmental consequences when acting on the proposed
3 project. Such analysis must include and rely upon thresholds of significance that are based on
4 substantial evidence in the record.

5 41. CEQA also mandates that the lead agency analyze and adopt feasible and
6 enforceable mitigation measures that would reduce or avoid any of a project's significant
7 environmental impacts. If any of the project's significant impacts cannot be mitigated to a less
8 than significant level, then CEQA bars the lead agency from approving a project if a feasible
9 alternative is available that would meet the project's objectives while avoiding or reducing its
10 significant environmental impacts.

11 42. CEQA requires that substantial evidence in the administrative record support all of
12 the agency's findings and conclusions, including those contained in the EIR, and that the agency
13 explain how the evidence in the record supports the conclusions the agency has reached.

14 43. Respondents committed a prejudicial abuse of discretion and failed to proceed in a
15 manner required by law because the Project relies on an EIR that fails to meet the CEQA's
16 requirements for the disclosure, analysis, mitigation, reduction, and/or avoidance of significant
17 environmental impacts from the Project, including direct and cumulative impacts relating to
18 wildfire, greenhouse gas emissions, traffic, biological resources, water supplies, water quality,
19 and land use.

20 44. **Project Description.** The EIR fails to describe the whole of the proposed action
21 and fails to accurately describe the nature and extent of the project approvals being considered
22 as a part of the Project.

1 45. **Baseline.** The EIR fails to adequately describe the existing physical environmental
2 conditions in the vicinity of the project, including but not limited to environmental conditions
3 relating to the Project’s impacts to biological resources, water supply, and greenhouse gas
4 emissions.

5 46. **Biological Resources.** The EIR fails to adequately disclose, analyze, and/or
6 mitigate the Project’s significant direct, indirect, and cumulative impacts to biological resources,
7 including numerous special status wildlife and plant species affected by the Project. Those
8 wildlife species include, but are not limited to: Monterey shrew, Monterey dusky-footed
9 woodrat, California tiger salamander, Northern California legless lizard, coast horned lizard,
10 California red-legged frog, coast range newt, Smith’s blue butterfly, California fairy shrimp,
11 Monterey spineflower, Fort Ord spineflower (first described in 2014), Monterey gilia, seaside
12 bird’s beak, Yadon’s rein orchid, Contra Costa goldfields, coast wallflower, Monterey
13 ceanothus, and four species of rare and endemic manzanitas – Hooker’s, Toro, Pajaro, and
14 sandmat. The EIR’s biological resources analysis is inadequate because, *inter alia*, the EIR:

- 15 a. fails to include and fully analyze all biological resources impacts resulting from
- 16 the Project;
- 17 b. relies on mitigation measures that are vague, ineffective, deferred, and/or
- 18 unenforceable;
- 19 c. fails to incorporate all feasible mitigation or avoidance measures;
- 20 d. fails to adequately disclose, analyze, and/or mitigate the Project’s significant
- 21 impacts on habitats and features such as oak woodlands and riparian areas; and
- 22
- 23

- 1 e. fails to adequately disclose, analyze and/or mitigate the direct, indirect, and
2 cumulative impacts of the Project on other biological resources, including
3 cumulative impacts to wildlife movement.

4 47. **Greenhouse Gas Emissions.** The EIR fails to adequately disclose, analyze, and/or
5 mitigate the Project's significant direct, indirect, and cumulative greenhouse gas impacts. The
6 EIR's analysis of greenhouse gas impacts is inadequate because, *inter alia*, the EIR:

- 7 a. fails to account for, disclose and fully analyze the impacts from all greenhouse gas
8 emissions resulting from the Project;
- 9 b. fails to support its selection of thresholds of significance with substantial evidence
10 in the record;
- 11 c. relies on greenhouse gas mitigation measures that are vague, ineffective, deferred,
12 and/or unenforceable;
- 13 d. fails to incorporate all feasible mitigation and avoidance measures; and

14 48. **Water Supply.** The EIR does not adequately disclose, analyze, and/or mitigate the
15 environmental consequences of supplying water and adequate utilities service to the Project. The
16 EIR's utilities and water supply analysis is inadequate because, *inter alia*, the EIR:

- 17 a. fails to include and adequately analyze the impacts of providing the Project with
18 long-term potable water supply;
- 19 b. relies on mitigation measures that are vague, ineffective, deferred, and/or
20 unenforceable, and fails to adequately assess the impacts associated with those
21 mitigation measures;

- 1 c. fails to provide an adequate assessment of cumulative impacts associated with
2 provision of water supply; and
- 3 d. fails to incorporate all feasible mitigation measures to reduce the impacts of
4 supplying the Project with potable water and long-term utilities service.

5 49. **Alternatives.** The EIR fails to provide an adequate selection and discussion of
6 alternatives for consideration that foster informed decision-making and informed public
7 participation. The alternatives analysis in the EIR does not meet CEQA's requirement that an
8 EIR consider a reasonable range of alternatives that lessen the Project's significant
9 environmental impacts, does not focus on alternatives that either eliminate adverse impacts or
10 reduce them to insignificance even if they would to some degree impede the Project's
11 objectives, fails to consider a feasible alternative that would lessen significant impacts,
12 unlawfully rejects alternatives without adequately analyzing whether their impacts would be less
13 significant than the Project's, and fails to support its conclusions regarding alternatives.

14 50. **Response to Comments.** The responses to comments in the Final EIR fail to meet
15 CEQA's requirements in that they neither adequately dispose of all the issues raised, nor provide
16 specific rationale for rejecting suggested Project changes, including the consideration or
17 adoption of feasible mitigation measures or alternatives. CEQA requires that a lead agency
18 evaluate and respond to all environmental comments on the Draft EIR that it receives during the
19 public review period. The responses must describe the disposition of the issues raised and must
20 specifically explain reasons for rejecting suggestions and for proceeding without incorporating
21 the suggestions. The Final EIR's responses to comments fail to satisfy the requirements of law.

1 Based upon each of the foregoing reasons, the EIR is legally defective under CEQA.
2 Respondents prejudicially abused their discretion in violation of CEQA in approving the Project.
3 As such, the Court should issue a writ of mandate directing Respondents to set aside the
4 certification of the EIR and approval of the Project.

5 **SECOND CAUSE OF ACTION**

6 **Violation of CEQA — Inadequate Findings and Statement of Overriding Considerations**
7 **(Public Resources Code § 21000, et seq., CEQA Guidelines § 15000 et seq.)**

8 51. Petitioner hereby incorporates by reference each and every allegation set forth
9 above.

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

18 53. When an EIR concludes that a project would result in significant environmental
19 effects, but where mitigation measures and alternatives identified in the EIR are deemed
20 infeasible, the CEQA findings must identify the specific economic, legal, social and
21 technological and other considerations that make infeasible the adoption of mitigation measures
22 or alternatives. All CEQA findings must be supported by substantial evidence in the record and

1 must disclose the analytical route by which approval of a project is justified. Here, the findings
2 regarding the impacts, mitigation measures, and alternatives relied upon by Respondents'
3 approval of the Project are not supported by substantial evidence in the record, and do not
4 disclose the links between evidence and conclusions.

5 54. Respondents' Findings of Fact and Statement of Overriding Considerations fail to
6 reflect the independent judgment of Respondents.

7 55. As a result of the foregoing defects, Respondents failed to proceed in a manner
8 required by law, and their decision to approve the Project and adopt Findings of Fact and a
9 Statement of Overriding Considerations was not supported by substantial evidence.

10 WHEREFORE, Petitioner prays for relief as follows:

11 **PRAYER FOR RELIEF**

12 1. For alternative and peremptory writs of mandate directing Respondents to vacate
13 and set aside certification of the EIR, adoption of the Findings and Statement of Overriding
14 Considerations, and all Project approvals;

15 2. For alternative and peremptory writs of mandate directing Respondents to comply
16 with CEQA and the CEQA Guidelines and take any other action as required by Public
17 Resources Code section 21168.9;

18 3. For a temporary stay, temporary restraining order, and preliminary and permanent
19 injunctions restraining Respondents or their agents, servants, and employees, and all others
20 acting in concert with them or on their behalf, from taking any action to implement, fund or
21 construct any portion or aspect of the Project, pending full compliance with the requirements of
22 CEQA and the CEQA Guidelines;

1 4. For a declaration that Respondents’ actions in certifying the EIR and approving
2 the Project violated CEQA and the CEQA Guidelines, and that the certification and approvals
3 are invalid and of no force or effect, and that the Project is inconsistent with other applicable
4 plans, policies, or regulations;

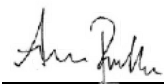
5 5. For costs of the suit;

6 6. For attorney’s fees as authorized by Code of Civil Procedure section 1021.5 and
7 other provisions of law; and,

8 7. For such other and future relief as the Court deems just and proper.
9
10

11 DATED: June 13, 2024

CENTER FOR BIOLOGICAL DIVERSITY

12
13 By: 

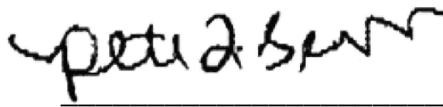
14 _____
Aruna Prabhala
J.P. Rose
Peter J. Broderick

15
16 Attorneys for Petitioners CENTER FOR
17 BIOLOGICAL DIVERSITY and LANDWATCH
MONTEREY COUNTY
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1 **VERIFICATION**

2 I am the Director of Programs for the Center for Biological Diversity, which is a party to
3 this action. I am authorized to make this verification for and on its behalf, and I make this
4 verification for that reason. I have read the foregoing document and know its contents. The
5 matters stated in it are true of my own knowledge except as to those matters that are stated on
6 information and belief, and as to those matters I believe them to be true.

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct. Executed this 13th day of June, 2024, in Shelter Cove, California.

9 

10 _____
11 Peter Galvin

Exhibit A



Via FedEx

June 13, 2024

City of Seaside
Dominique Davis, City Clerk
440 Harcourt Avenue
Seaside, CA 93955

Re: Notice of Commencement of Legal Action Pursuant to the California Environmental Quality Act

Dear Ms. Davis,

Center for Biological Diversity and Landwatch Monterey County (“Petitioners”) intend to commence an action for writ of mandate to vacate and set aside the decision of the City of Seaside and the City of Seaside City Council (“Respondents”) approving the Seaside General Plan Update 2040 (“Project”) and certifying a Final Environmental Impact Report for the Project. Petitioners submit this notice pursuant to Public Resources Code section 21167.5.

The action will commence on June 13, 2024 and will be based upon on Respondents’ failure to comply with the California Environmental Quality Act (Public Resources Code § 21000, *et seq.*) in adopting the Environmental Impact Report and approving the Project.

Sincerely,

Aruna Prabhala
Senior Attorney | Urban Wildlands Director
Center for Biological Diversity
1212 Broadway, Suite #800
Oakland, CA 94612
Tel: (510) 844-7122
aprabhala@biologicaldiversity.org



Via FedEx

June 13, 2024

City of Seaside City Council
Dominique Davis, City Clerk
440 Harcourt Avenue
Seaside, CA 93955

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Dear Ms. Davis,

Center for Biological Diversity and Landwatch Monterey County (“Petitioners”) intend to commence an action for writ of mandate to vacate and set aside the decision of the City of Seaside and the City of Seaside City Council (“Respondents”) approving the Seaside General Plan Update 2040 (“Project”) and certifying a Final Environmental Impact Report for the Project. Petitioners submit this notice pursuant to Public Resources Code section 21167.5.

The action will commence on June 13, 2024 and will be based upon on Respondents’ failure to comply with the California Environmental Quality Act (Public Resources Code § 21000, *et seq.*) in adopting the Environmental Impact Report and approving the Project.

Sincerely,

Aruna Prabhala
Senior Attorney | Urban Wildlands Director
Center for Biological Diversity
1212 Broadway, Suite #800
Oakland, CA 94612
Tel: (510) 844-7122
aprabhala@biologicaldiversity.org

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF ALAMEDA

3 I am employed in Oakland, California. I am over the age of 18 and not a party to the foregoing
4 action. My business address is Center for Biological Diversity, 1212 Broadway, Suite 800,
5 Oakland, California 94612. My email address is trettinghouse@biologicaldiversity.org.

6 On June 13, 2024, I served a true and correct copy of the following document(s):

7 **Notice of Commencement of Legal Action Pursuant to CEQA**

8 BY ELECTRONIC SERVICE: By electronically mailing a true and correct copy through
9 Center for Biological Diversity’s electronic mail system to the email address(s) shown below.

10 BY FEDERAL EXPRESS: By placing a true and correct copy thereof in sealed envelope(s).
11 Such envelope(s) were addressed as shown below. Such envelope(s) were deposited for
12 collection and mailing following ordinary business practices with which I am readily familiar.

14 City of Seaside	City of Seaside City Council
15 Dominique Davis, City Clerk	Dominique Davis, City Clerk
16 440 Harcourt Avenue	440 Harcourt Avenue
17 Seaside, CA 93955	Seaside, CA 93955

18 STATE: I declare under penalty of perjury under the law of California that the foregoing
19 is true and correct.

20 Executed on June 13, 2024 at Alameda, California.


21 
22 Theresa Rettinghouse
23

Exhibit B

1 Aruna Prabhala (SBN 278865)
J.P. Rose (SBN 285819)
2 Peter Broderick (SBN 293060)
CENTER FOR BIOLOGICAL DIVERSITY
3 1212 Broadway, Suite 800
Oakland, California 94612
4 Telephone: (510) 844-7100
Facsimile: (510) 844-7150
5 aprabhala@biologicaldiversity.org
jrose@biologicaldiversity.org
6 pbroderick@biologicaldiveristy.org

7 Attorneys for Center for Biological Diversity

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF MONTEREY**

10
11 CENTER FOR BIOLOGICAL
DIVERSITY and LANDWATCH
12 MONTEREY COUNTY

13 Petitioners,

14 v.

15 CITY OF SEASIDE; CITY COUNCIL OF
THE CITY OF SEASIDE; and DOES 1
16 through 20, inclusive,

17 Respondents.

Case No.

**PETITIONERS' NOTICE OF
ELECTION TO PREPARE
ADMINISTRATIVE RECORD**

[Pub. Res. Code § 21167.6]

Petition Filed June 13, 2024

1 **TO RESPONDENTS CITY OF SEASIDE AND CITY COUNCIL OF THE CITY**
2 **OF SEASIDE:**

3 In the above-captioned action, Petitioners Center for Biological Diversity and LandWatch
4 Monterey County (“Petitioners”) petition this Court for a Writ of Mandate, directed to the City
5 of Seaside and the City Council of the City of Seaside (“Respondents”). Petitioners challenge
6 Respondents’ May 16, 2024 approval of the Seaside General Plan Update 2040 (“Project”) and
7 certification of the Environmental Impact Report (“EIR”) for the Project (State Clearinghouse
8 # 2017071021). Petitioners seek a determination that Respondents’ approvals were
9 inconsistent with, among other things, the requirements of the California Environmental
10 Quality Act (“CEQA”), Public Resources Code section 21000 *et seq.*, and the CEQA
11 Guidelines, Title 14, California Code of Regulations, section 15000 *et seq.*


12 Pursuant to Public Resources Code section 21167.6(b)(2), Petitioners hereby elect to
13 prepare the record of proceedings for this action. The record will be organized chronologically,
14 paginated consecutively, and indexed so that each document may be clearly identified as to its
15 contents and source, in form and format consistent with California Rules of Court, Rule
16 3.2205.

17 Petitioners will include in the record of proceedings all documents, including transcripts,
18 minutes of meetings, notices, correspondences, reports, studies, proposed decisions, final
19 drafts, and any other documents or records relating to Respondents’ approval of the Seaside
20 General Plan Update 2040 and certification of the Project EIR.

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DATED: June 13, 2024

CENTER FOR BIOLOGICAL DIVERSITY

By: 

Aruna Prabhala
J.P. Rose
Peter J. Broderick

Attorneys for Petitioners CENTER FOR
BIOLOGICAL DIVERSITY and LANDWATCH
MONTEREY COUNTY

Exhibit C



Via Fedex

June 13, 2024

Mr. Rob Bonta, Attorney General
Office of the Attorney General
Attn: Environmental/CEQA Filing
1300 I Street
Sacramento, CA 95814-2919

Re: Notice of Commencement of Legal Action Alleging Environmental Harm

Dear Mr. Bonta:

The enclosed Petition for Writ of Mandate in *Center for Biological Diversity et al. v. City of Seaside et al.* (Monterey County Superior Court), is submitted to your office pursuant to Code of Civil Procedure section 388 and Public Resources Code 21167.7.

Petitioners in this case challenge the City of Seaside's approval of the Seaside General Plan Update 2040 ("Project"), and certification of a Final environmental impact report for the Project. Petitioners allege environmental harms that could affect the public generally and the natural resources of the state. Petitioners are specifically concerned that the Project will have significant negative environmental impacts on, among other things, biological resources, water, and greenhouse gas emissions.

Please acknowledge receipt in the enclosed prepaid, self-addressed envelope. Thank you for your attention to this matter.

Sincerely,

Aruna Prabhala
Senior Attorney | Urban Wildlands Director
Center for Biological Diversity
aprabhala@biologicaldiversity.org

Enclosure: Verified Petition for Writ of Mandate