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| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):<br>Amy C. Minter, SNB 223832<br>Chatten-Brown & Carstens LLP<br>2200 Pacific Coast Highway, Suite 318 Hermosa Beach, CA 90254<br><br>TELEPHONE NO.: 310-798-2400      FAX NO.: 310-798-2402<br>ATTORNEY FOR (Name): Citizens for Responsible Oil & Gas, Petitioner | FOR COURT USE ONLY   |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF Ventura /Oxnard<br>STREET ADDRESS: 800 S Victoria Ave #210<br>MAILING ADDRESS: 800 S Victoria Ave #210<br>CITY AND ZIP CODE: Ventura, CA 93009<br>BRANCH NAME: Ventura Hall of Justice   |  |
| CASE NAME:<br>Citizens for Responsible Oil & Gas vs. County of Ventura   |  |
| <b>CIVIL CASE COVER SHEET</b><br><input checked="" type="checkbox"/> <b>Unlimited</b> <input type="checkbox"/> <b>Limited</b><br>(Amount demanded exceeds \$25,000)      (Amount demanded is \$25,000 or less)   | <b>Complex Case Designation</b><br><input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b><br>Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) |
|  | CASE NUMBER:<br><br>JUDGE:<br><br>DEPT:  |

*Items 1-6 below must be completed (see instructions on page 2).*

1. Check one box below for the case type that best describes this case:

|  |   |  |
|--|---|--|
| <b>Auto Tort</b><br><input type="checkbox"/> Auto (22)<br><input type="checkbox"/> Uninsured motorist (46)<br><br><b>Other PI/PD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort</b><br><input type="checkbox"/> Asbestos (04)<br><input type="checkbox"/> Product liability (24)<br><input type="checkbox"/> Medical malpractice (45)<br><input type="checkbox"/> Other PI/PD/W/D (23)<br><br><b>Non-PI/PD/W/D (Other) Tort</b><br><input type="checkbox"/> Business tort/unfair business practice (07)<br><input type="checkbox"/> Civil rights (08)<br><input type="checkbox"/> Defamation (13)<br><input type="checkbox"/> Fraud (16)<br><input type="checkbox"/> Intellectual property (19)<br><input type="checkbox"/> Professional negligence (25)<br><input type="checkbox"/> Other non-PI/PD/W/D tort (35)<br><br><b>Employment</b><br><input type="checkbox"/> Wrongful termination (36)<br><input type="checkbox"/> Other employment (15) | <b>Contract</b><br><input type="checkbox"/> Breach of contract/warranty (06)<br><input type="checkbox"/> Rule 3.740 collections (09)<br><input type="checkbox"/> Other collections (09)<br><input type="checkbox"/> Insurance coverage (18)<br><input type="checkbox"/> Other contract (37)<br><br><b>Real Property</b><br><input type="checkbox"/> Eminent domain/Inverse condemnation (14)<br><input type="checkbox"/> Wrongful eviction (33)<br><input type="checkbox"/> Other real property (26)<br><br><b>Unlawful Detainer</b><br><input type="checkbox"/> Commercial (31)<br><input type="checkbox"/> Residential (32)<br><input type="checkbox"/> Drugs (38)<br><br><b>Judicial Review</b><br><input type="checkbox"/> Asset forfeiture (05)<br><input type="checkbox"/> Petition re: arbitration award (11)<br><input checked="" type="checkbox"/> Writ of mandate (02)<br><input type="checkbox"/> Other judicial review (39) | <b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b><br><input type="checkbox"/> Antitrust/Trade regulation (03)<br><input type="checkbox"/> Construction defect (10)<br><input type="checkbox"/> Mass tort (40)<br><input type="checkbox"/> Securities litigation (28)<br><input type="checkbox"/> Environmental/Toxic tort (30)<br><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)<br><br><b>Enforcement of Judgment</b><br><input type="checkbox"/> Enforcement of judgment (20)<br><br><b>Miscellaneous Civil Complaint</b><br><input type="checkbox"/> RICO (27)<br><input type="checkbox"/> Other complaint (not specified above) (42)<br><br><b>Miscellaneous Civil Petition</b><br><input type="checkbox"/> Partnership and corporate governance (21)<br><input type="checkbox"/> Other petition (not specified above) (43) |
|--|---|--|

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

|  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |

3. Remedies sought (check all that apply): a.  monetary    b.  nonmonetary; declaratory or injunctive relief    c.  punitive

4. Number of causes of action (specify): One

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: July 21, 2016  
 Amy Minter \_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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10

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF VENTURA**

13 CITIZENS FOR RESPONSIBLE OIL & GAS )

14 Petitioner, )

15 v. )

16 COUNTY OF VENTURA )

17 Respondent. )

18 )  
19 MIRADA PETROLEUM INC; and DOES 1 )  
20 to 10, )

21 Real Parties in Interest. )  
22 )  
23 )  
24 )

CASE NO.:

**PETITION FOR WRIT OF MANDATE**

(Violation of California Environmental  
Quality Act)

1  
2 **INTRODUCTION**

3 1. Petitioner Citizens for Responsible Oil and Gas challenges the County of  
4 Ventura's (County's) approval of a modification of a conditional use permit (CUP) on the  
5 Agnew Lease ("the Agnew proposal") that permits three new oil wells, the re-drilling of an  
6 existing oil well, and that legitimizes dangerous oil tanker truck traffic at the intersection of  
7 Highway 150 and Koenigstein Road. The Subsequent Environmental Impact Report (SEIR)  
8 prepared for the Agnew proposal pursuant to the California Environmental Quality Act (CEQA)  
9 admits that the Agnew proposal would permit oil tanker truck traffic previously prohibited for  
10 safety reasons. The SEIR fails to quantify and analyze the adverse air quality emissions of  
11 reactive organic compounds (ROC) from the proposed three oil wells. According to the Ventura  
12 County Air Pollution Control District estimate that each well emits 2 pounds ROC per day, the  
13 three proposed wells would exceed the County's 5-pound ROC per day threshold of significance  
14 for the Ojai Valley air shed. Nevertheless, the SEIR inexplicably finds that the Agnew proposal  
15 will not have significant adverse impacts on traffic safety or air quality. These findings result in  
16 the County failing to incorporate mitigation for its impacts on human health and safety.

17 2. These wholesale violations of CEQA has necessitated the filing of this action to  
18 obtain a writ of mandate and other appropriate relief rescinding the certification of the  
19 addendum and setting aside approval of the modified conditional use permit that would allow  
20 continued drilling in violation of permit conditions, the addition of new oil wells, and use of a  
21 road found to be so dangerous that its use for oil tanker traffic was prohibited in 1983.

22 3. The violations of CEQA by the County in connection with the Agnew proposal  
23 render its approvals invalid. Accordingly, Petitioner requests that this Court issue peremptory  
24 and alternative writs of mandate to prevent the County or Real Parties in Interest from taking  
25 any further actions based on the faulty approvals until an adequate subsequent environmental  
26 impact report has been prepared.

27 **JURISDICTION**

28 4. This Court has jurisdiction over the writ action under section 1085 and 1094.5 of

1 the Code of Civil Procedure (“CCP”), and sections 21168 and 21168.5 of the Public Resources  
2 Code.

3 **PARTIES**

4 5. Petitioner CITIZENS FOR RESPONSIBLE OIL & GAS (“CFROG”) is a non-  
5 profit oil and gas industry watchdog organization. Comprised of more than 500 volunteers,  
6 CROG’s goal is to analyze oil and gas applications and make sure government agencies follow  
7 the law and do the appropriate scientific evaluations before drilling or other Agnew proposals  
8 commence and make sure existing operations do not violate the terms of their permits.  
9 CFROG’s advisory board of scientists, engineers, lawyers, educators, journalists, contractors  
10 and other professionals brings a more modern approach to the traditional Ventura County  
11 permitting process that must now include greater awareness of the risks of extreme extraction  
12 techniques and the impact of oil and gas on climate change.

13 6. Respondent COUNTY OF VENTURA (“County”) is a political subdivision of the  
14 State of California.

15 7. Real Party in Interest MIRADA PETROLEUM INC. is the Agnew proposal  
16 applicant and recipient of the Agnew proposal approval at issue in this matter.

17 8. Real Party In Interest SOUTH MOUNTAIN RESOURCES, LTD. is the owner of  
18 the property that comprises the Agnew proposal site.

19 9. Real Parties in Interest named as Does 1 to 10 are given fictitious names because  
20 their names and capacities are presently unknown to Petitioners.

21 **STATEMENT OF FACTS**

22 **The Agnew proposal Area**

23 10. The 19.83-acre Agnew proposal site is known as the Agnew Lease. The site is  
24 located in a mountainous region between the cities of Ojai and Santa Paula, about two miles  
25 west of St. Thomas Aquinas College in what is known as the Sisar Creek area of the Upper Ojai  
26 Valley. Specifically, the site is located 2,000 feet north of Highway 150, adjacent to  
27 Koenigstein Road.  
28

1           11.    The Agnew proposal site sits within jurisdictions of the Ojai Valley Area Plan, the  
2 AQAG Ojai Planning Area, and the Santa Paula Area of Influence.

3           12.    The surrounding area is zoned Open Space and includes a number of homes on  
4 large lots, orchards, and other active oil and gas facilities.

5           13.    Roads in and around the Agnew proposal site are narrow and windy. In order to  
6 eliminate the safety impacts of oil tanker truck traffic on Ojai-area roads, in the late 1970s,  
7 Ventura County began requiring use of pipelines for oil transport. For example, pipeline use is  
8 required for the transport of all oil pumped from wells accessible by Sulphur Mountain Road.

9           14.    Oil drilling near the Agnew proposal site began in 1943. Area wells were  
10 originally accessed by Koenigstein Road or a "fair weather crossing" through Ojai Oil  
11 Company land.

12           15.    In 1978, to assuage concerns about the safety of oil tanker truck traffic at the  
13 intersection of Koenigstein Road and Highway 150, Ventura County began prohibiting oil  
14 tanker trucks from making wide right turns from Highway 150 onto Koenigstein Road. As a  
15 result, truck traffic was required to pass Koenigstein Road, turn around at a safe location, and  
16 access Koenigstein Road by a legal left turn.

17           16.    When this prohibition became difficult to enforce, the County required the use of  
18 flag men to stop traffic on Highway 150 so that oil tanker trucks could safely make the wide  
19 right turn onto Koenigstein Road.

20           17.    When the use of flagmen became too onerous, as oil permits came up for renewal,  
21 Ventura County banned oil tanker truck traffic from Koenigstein Road entirely. For example,  
22 in two CUP modifications processed in 1983, the County found, "Significant traffic impacts  
23 could occur due to movement of large vehicles at the intersections of Highway 150 and  
24 Koenigstein Road creating unsafe conditions."

25           18.    In 1993, winter storms washed out the fair weather access road through the Ojai  
26 Oil Company property. Since that time, oil tanker trucks have used Koenigstein Road for  
27 access in violation of the CUP condition prohibiting use of Koenigstein Road.  
28

1  
2 19. Ventura County initially granted Conditional Use Permit No. 3543 (hereinafter  
3 “CUP 3543”) to Phoenix West Oil and Gas Company, authorizing the drilling of six (6) oil wells  
4 on the Agnew Lease site, in 1976. Four modifications to the CUP were granted between 1977  
5 and 1983.

6 20. An EIR for CUP 3543 was initially certified by the Ventura County Planning  
7 Commission and the Board of Supervisors in 1976. However, the certification was successfully  
8 challenged, resulting in an appellate decision that a new EIR was required.

9 21. The Court of Appeal found: (1) the original EIR failed to adequately analyze the  
10 cumulative impact of related oil and gas developments in the region; and (2) the original EIR  
11 failed to address the environmental consequences of a pipeline for product transport if the oil  
12 wells drilled became successful.

13 22. A new EIR for CUP 3543 was certified by the Ventura Planning Commission on  
14 November 17, 1983. The EIR concluded that the installation and operation of six oil wells could  
15 have significant but mitigatable direct impacts on geology, hydrology, traffic, biological  
16 resources, noise, archaeological resources, and visual resources. The EIR concluded that the  
17 installation and operation of the six wells could have significant but mitigatable cumulative  
18 impacts on visual impacts, air quality, biological resources, groundwater supply, traffic, and  
19 noise.

20 23. The 1983 EIR acknowledges that Koenigstein Road is too narrow to accommodate  
21 two passing trucks, and that “[t]he movement of large vehicles at the intersection of State Route  
22 150 and Koenigstein Road could create unsafe conditions.”

23 24. Mitigation for CUP 3543’s significant direct and cumulative environmental impacts  
24 in the 1983 EIR included traffic conditions requiring construction of an oil pipeline if production  
25 under the CUP reached 350 barrels per day (Condition 30) and a prohibition of heavy truck  
26 traffic on Koenigstein Road (Condition 52).

27 25. Specifically, the Planning Commission adopted a finding that: “Significant traffic  
28 impacts could occur due to the movement of large vehicles at the intersection of Highway 150

1 and Koenigstein Road creating unsafe conditions. This potential impact could be reduced to an  
2 insignificant level by imposition of Condition 52 which would require that all trucks over ¾ ton  
3 avoid the use of Koenigstein Road by utilizing a private access road through Ojai Oil Company  
4 property.” The Planning Commission further found, “This prohibition is necessary because of a  
5 narrow bridge on Koenigstein Road immediately adjacent to Highway 150 which results in poor  
6 turning radii for large vehicles.”

7 26. Without these mitigation measures, the 1983 EIR found that the Agnew proposal’s  
8 use of heavy trucks would cause significant adverse impacts on traffic and safety.

9 27. The mitigation measure prohibiting use of Koenigstein Road was memorialized in  
10 Condition of Approval No. 52, “Truck Access Prohibited. That in conjunction with drilling  
11 operations, the permittee shall be prohibited from utilizing Koenigstein Road as a primary  
12 access road with ¾-ton and over trucks, except for secondary emergency traffic.”

13 28. As approved in 1983, CUP 3543 was set to expire on November 17, 2013.

14 29. Three years after CUP 3543 was reapproved, Phoenix West Oil and Gas Company  
15 was fined for unpermitted oil and brine releases. The state Attorney General’s intervened.

16 30. To date, three (3) wells have been drilled on the Agnew Lease pursuant to CUP  
17 3543 (Agnew 1, Agnew 2, Agnew 3). Other equipment on-site includes one 16-foot-high water  
18 tank, two 7,000-gallon wastewater tanks, two 13,000-gallon tanks for storage of oil and waste,  
19 one barrel tank, three vertical tanks ranging from 10 to 18 feet in height, a gas flare, electrical  
20 equipment, and several local pipelines. The existing oil and gas facility encompasses  
21 approximately two acres that are maintained in an un-vegetated state.

22 31. The Agnew proposal is a requested modification of CUP 3543 (Case No. PL13-  
23 0158). Proposed by current operator, Mirada Petroleum, the Agnew proposal provides for 25  
24 additional years of well operations, the drilling of three (3) new oil wells on the existing pad,  
25 redrilling of one existing oil well, and the modification of Condition No. 52 to allow the use of  
26 Koenigstein Road for approximately 16 oil tanker trips through its intersection with Highway  
27 150 per week.  
28



1           32.    The Agnew proposal objective is to increase the production of oil and gas at the  
2 existing facility that can be sold for the purpose of manufacturing petroleum products.

3           33.    Of the Agnew proposal's three wells, one would be drilled within five years of  
4 Agnew proposal approval. The other two wells would be drilled within ten years of Agnew  
5 proposal approval. Drilling operations for each well would occur 24 hours per day, 7 days per  
6 week, for several weeks. The same schedule would apply to the well that would be re-drilled  
7 pursuant to the Agnew proposal.

8           34.    The Agnew proposal would require trucking of produced oil and wastewater to  
9 offsite oil refining and disposal facilities using oil tanker and other heavy trucks. The SEIR  
10 analyzes 16-one-way heavy truck trips per week that would occur Monday through Saturday,  
11 between 7:30 a.m. and 6:30 p.m. During drilling operations, the Agnew proposal would require  
12 daily truck trips to deliver drilling fluids. A truck-mounted drilling rig would be moved to the  
13 site during drilling operations. Transport of drilling rig personnel would add up to 40 vehicle  
14 trips per day during drilling operations. An additional 28 one-way pickup truck trips per week  
15 would also occur to conduct routine maintenance at the Agnew proposal.

16           **Approval of the Agnew proposal**

17           35.    In October 2013, Real Party applied for a modified CUP for the Agnew proposal.  
18 In purported compliance with Section 15162 of the CEQA Guidelines, the County prepared a  
19 SEIR for the Agnew proposal.

20           36.    A SEIR is required when substantial changes are proposed in a CUP modification  
21 that will require major revisions of the previous EIR due to new or significant environmental  
22 impacts or an increase in the severity of previously-identified environmental impacts; when  
23 substantial changes occur with respect to the circumstances of the implementation of the CUP  
24 modification; or when new information of substantial importance becomes available that shows  
25 a proposed CUP modification will have significant environmental impacts not identified in the  
26 previous EIR.

27           37.    The County found that the Agnew proposal would increase truck traffic on  
28



1 Highway 150; that the Agnew proposal's use of Koenigstein Road was a previously-identified  
2 significant adverse impact; and that the fair weather crossing of the Ojai Oil Company property  
3 was destroyed in 1993.

4 38. A Notice of Preparation of the SEIR was issued on February 19, 2015.

5 39. A public scoping meeting was held on March 10, 2015.

6 40. The draft SEIR was released to the public on April 10, 2015 for a comment period  
7 that lasted until June 2015.

8 41. The SEIR did not identify any significant and unavoidable impacts of the Agnew  
9 proposal.

10 42. Despite the safety-based prohibitions on use of the Highway 150/Koenigstein Road  
11 intersection in the past, the SEIR concluded that the intersection was safe for oil tanker truck  
12 traffic and would not have significant adverse impacts.

13 43. The SEIR also found that the Agnew proposal would not have significant adverse  
14 impacts on air quality.

15 44. The County received 13 letters and 224 individual comments on the Agnew  
16 proposal. These comments disagreed with the SEIR's evaluation of traffic and safety with  
17 regard to the Agnew proposal's Koenigstein Road access and disagreed with the SEIR's  
18 evaluation of air quality impacts.

19 45. Caltrans submitted a letter to the County raising concerns with the sight distance  
20 along Highway 150 and the adequacy of the turning radius for right turns onto Koenigstein  
21 Road.

22 46. On October 27, 2015, the Planning Director held a public hearing on the Agnew  
23 proposal. The Planning Director approved the Agnew proposal on November 16, 2015.

24 47. On November 23, 2015, CFROG appealed the Planning Director's approval of the  
25 Agnew proposal. After the appeal was filed, CFROG notified the Planning Division that the  
26 Agnew proposal site is located within the Ojai Valley Area Plan planning area. Since the  
27 Agnew proposal's consistency with the land use policies of the Ojai Valley Area Plan had not  
28

1 been evaluated in the staff report presented to the Planning Director and the public at the  
2 October 27, 2015 hearing, the Planning Director set aside the November 16, 2015 decision  
3 approving the Agnew proposal. The Planning Director's action rendered the CFROG appeal  
4 moot. The Planning Director then deferred the consideration of the proposed Agnew proposal to  
5 the Planning Commission.

6 48. The County released the final SEIR in March of 2016.

7 49. On April 1, 2016, the City of Ojai submitted a letter regarding the Agnew proposal  
8 objecting to the County's improper implementation of the Ojai Valley Area Plan (OVAP) air  
9 quality policies in the SEIR and requesting additional analysis of the Agnew proposal's potential  
10 traffic impacts on Ojai. The letter sought strict implementation of the OVAP's 5-pound per day  
11 threshold of significance for Reactive Organic Compounds (ROC). The City's letter further  
12 stated that the County and SEIR's interpretation of the Ventura County Air Pollution Control  
13 District Guidelines results in a General Plan inconsistency.

14 50. On April 7, 2016, the Planning Commission held a public hearing to consider the  
15 Agnew proposal. After approximately five hours of testimony by the public, CFROG, and  
16 experts, the Planning Commission denied the CFROG's appeal and voted 4 to 1 to approve the  
17 Agnew proposal without any substantive changes.

18 51. CFROG filed an appeal of the Planning Commission decision on or about April 15,  
19 2016.

20 52. On June 21, 2016, the County Board of Supervisors held a hearing to consider the  
21 appeal of the Planning Commission's approval of the Agnew proposal submitted by CFROG.

22 53. A substantial amount of testimony was provided at this hearing regarding the  
23 potential impacts associated with the Agnew proposal. In addition to testimony by members of  
24 CFROG, substantive comments were made and scientific reports and surveys were submitted by  
25 air quality experts, as well as members of the community concerned about the Agnew proposal's  
26 safety and impacts to human health.

27 54. In a split three to two vote, the Board of Supervisors approved the Agnew proposal  
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1 and denied CFROG's appeal at the June 21, 2016 hearing.

2 55. On June 23, 2016, the County filed a notice of determination.

3 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

4 **AND INADEQUATE REMEDIES AT LAW**

5 56. CFROG objected to the Agnew proposal throughout the administrative process,  
6 and fully exhausted its administrative remedies. CFROG appeared at public hearings and  
7 submitted letters raising the issues set forth in this Petition, and filed administrative appeals of  
8 the approval.

9 57. CFROG has no plain, speedy or adequate remedy in the course of ordinary law  
10 unless this Court grants the requested writs of mandate.

11 58. CFROG has complied with Public Resources Code section 21167.7 by sending a  
12 copy of this petition to the California Attorney General. (**Exhibit A**).

13 59. CFROG has complied with Public Resources Code section 21167.5 by providing  
14 the County with notice of intention to commence the action. (**Exhibit B**).

15 60. CFROG elects to prepare the administrative record. (**Exhibit C**).

16 **FIRST CAUSE OF ACTION**

17 **(VIOLATION OF CEQA)**

18 61. CFROG incorporates all previous paragraphs as if fully set forth.

19 62. The County's violations of CEQA's requirements include, but are not limited to,  
20 the following:

21 **Inadequate Analysis and Mitigation of Impacts**

22 63. CEQA requires the County to conduct an adequate environmental review prior to  
23 making any formal decision regarding Agnew proposals subject to CEQA. (CEQA Guidelines,  
24 14 Cal. Code Regs. § 15004).

25 64. CEQA imposes upon the County a clear, present and mandatory duty to certify an  
26 EIR or SEIR only if the environmental report fully discloses to the public the significant  
27 environmental effects that may occur. The SEIR for the CUP 3543 Modification Agnew  
28

1 proposal lacks the necessary analysis.

2 65. Further, CEQA requires adoption of all feasible mitigation measures that will  
3 reduce adverse environmental impacts. Many feasible mitigation measures, including measures  
4 that were required in past EIRs to mitigate impacts, were ignored, discounted, or rejected in the  
5 SEIR.

6 **a. Air Quality Impacts**

7 66. Ojai Valley Area Plan Policy (OVAP) 1.1.2.2 provides, “discretionary  
8 development in the Ojai Valley shall be found to have a significant adverse impact on regional  
9 air quality if daily emissions would be greater than 5 pounds per day of Reactive Organic  
10 Compounds (ROC) and/or greater than 5 pounds for day of Nitrogen Oxides (NOx).”

11 67. This policy was enacted to protect Ojai’s residents and visitors, as the Ojai Valley  
12 is unusually vulnerable to unhealthy levels of air pollution. The Valley is surrounded by  
13 mountains that inhibit dispersion of air pollutants. This geography is compounded by the  
14 Ventura River channel, which conveys air between Ojai and the coast. The diurnal land and sea  
15 breeze pattern in the Ojai Valley recirculates contaminants for several days before sufficient  
16 dispersion may occur.

17 68. Children and the elderly are especially vulnerable to high levels of ROC and NOx.

18 69. The Ventura County Air Quality Assessment Guidelines also contain a significance  
19 threshold of 5 pounds of ROC per day.

20 70. The County claims that neither the OVAP nor the Air Quality Assessment  
21 Guidelines 5-pound ROC per day threshold of significance apply because the Agnew proposal’s  
22 oil wells and stationary equipment would require ministerial permits by the Ventura County Air  
23 Pollution Control District.

24 71. The SEIR for the Agnew proposal fails to quantify or evaluate the ROC air  
25 emissions from the three oil wells or other stationary sources of pollution from the Agnew  
26 proposal.

27 72. Even though the Agnew proposal’s emissions from three oil wells would be 6  
28

1 pounds ROC per day and therefore exceed the OVAP 5-pound ROC per day threshold of  
2 significance, the SEIR incorrectly determines that the Agnew proposal's adverse impacts on air  
3 quality are less than significant.

4 73. The County claims that it properly discounted the Agnew proposal's emissions  
5 because the Ventura APCD will reduce the Agnew proposal's emissions below the significance  
6 threshold. The County justifies the APCD's program as feasible and effective mitigation under  
7 CEQA.

8 74. CEQA prohibits an agency's use of the APCD in this fashion to avoid publicly  
9 quantifying and evaluating the environmental impacts and mitigation measures during the  
10 CEQA process. Doing so "precludes both identification of potential environmental  
11 consequences arising from the Agnew proposal and also thoughtful analysis of the sufficiency  
12 of measures to mitigate those consequences." (*Lotus v. California Department of*  
13 *Transportation* (2014) 223 Cal.App.4th 645.) Stated another way, "a mitigation measure  
14 cannot be used as a device to avoid disclosing Agnew proposal impacts." (*San Joaquin Raptor*  
15 *Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 663-664.)

16 75. Further, CEQA requires the disclosure of the Agnew proposal's significant,  
17 adverse environmental impacts *before* mitigation so that the public and decision makers can  
18 assess the feasibility and efficacy of proposed mitigation before Agnew proposal approval.  
19 (CEQA Guidelines § 15126.4; *San Joaquin Raptor Rescue Center v. County of Merced* (2007)  
20 149 Cal.App.4th 645.)

21 76. Moreover, as the APCD process has not yet been completed, the County's reliance  
22 on the APCD program to provide air quality mitigation for the Agnew proposal constitutes  
23 impermissible deferred mitigation. (*Endangered Habitats League v County of Orange* (2005)  
24 131 Cal. App. 4th 777, 793-94; CEQA Guidelines § 15126.4(a)(1)(B).)

25 77. In a letter submitted to the County regarding the SEIR, the City of Ojai City  
26 Council stated, "The City Council's position is that ANY project which meets the thresholds in  
27 the OVAP [Ojai Valley Area Plan] for air quality should be considered in an EIR or SEIR for  
28

1 the project, regardless of whether default VCAPCD permit requirements and mitigation  
2 measures or project-specific mitigation measures would or would not bring the project's  
3 emissions to below the significant levels set in the OVAP. It would appear this project meets  
4 that threshold."

5 78. This SEIR's conclusion that the Agnew proposal will not have significant air  
6 quality impacts lacks substantial evidence. The SEIR's failure to disclose the Agnew  
7 proposal's significant air quality impacts violates CEQA.

8 79. The SEIR also fails to account for the emissions that will be produced by the  
9 Applicant's proposed reactivation of wells at the Nesbitt Lease, resulting in a failure to  
10 adequately analyze the Agnew proposal's cumulative air quality impacts.

11 **b. Land Use Impacts**

12 80. CEQA requires an EIR to discuss a Agnew proposal's inconsistencies with  
13 existing land use plans. (CEQA Guidelines § 15125(d); CEQA Guidelines Appendix G § X.b.)

14 81. The Ojai Valley Area Plan is part of the General Plan for the County of Ventura.

15 82. Ojai Valley Area Plan Policy 1.1.2.2 provides, "discretionary development in the  
16 Ojai Valley shall be found to have a significant adverse impact on regional air quality if daily  
17 emissions would be greater than 5 pounds per day of Reactive Organic Compounds (ROC)  
18 and/or greater than 5 pounds for day of Nitrogen Oxides (NOx)."

19 83. The Agnew proposal's emissions would exceed the 5-pound threshold of  
20 significance for Reactive Organic Compounds and is therefore inconsistent with the OVAP air  
21 quality policy.

22 84. The SEIR does not disclose, analyze, or mitigate this inconsistency with the  
23 OVAP or the County General Plan, in violation of CEQA.

24 85. Accordingly, the County's approval of the Agnew proposal without adequate  
25 disclosure, analysis, or mitigation conflicts with the Ojai Valley Area Plan and results in a  
26 significant impact on land use that has not been disclosed, analyzed, or mitigated in the SEIR.

27 86. The SEIR and Agnew proposal approval fail to include concrete and enforceable  
28

1 mitigation measures to reduce the Agnew proposal's potential impacts with regard to safety as a  
2 result of the use of oil tanker trucks at the intersection of Highway 150 and Koenigstein Road.

3 87. Ventura County General Plan Policy 2.1.4.2 states, "New discretionary  
4 development shall be conditioned to minimize, to the maximum extent practical through new  
5 site design or setbacks, the risk to exposure to railroad and trucking hazards."

6 88. The SEIR's failure to disclose and mitigate the Agnew proposal's conflict with the  
7 Ventura County General Plan violates CEQA.

8 **c. Traffic Impacts**

9 89. The SEIR's conclusions must be supported by substantial evidence.

10 90. The 1983 EIR and Findings approved by the Planning Commission found that the  
11 use of Koenigstein Road to access the Agnew proposal was unsafe and would cause significant  
12 environmental impacts. The intersection is constrained by a narrow bridge on Koenigstein  
13 Road that requires heavy trucks to perform a wide right turn from Highway 150. This wide  
14 right turn often requires trucks to cross the yellow lines into oncoming traffic. Koenigstein  
15 Road in this location is too narrow for two trucks to pass simultaneously.

16 91. The 1983 EIR and Findings further found that CUP 3453 would have significant  
17 impacts related to traffic and safety unless Agnew proposal trucks were prohibited from using  
18 Koenigstein Road.

19 92. Accordingly, the 1983 approvals for CUP 3453 prohibited use of Koenigstein  
20 Road by any trucks over ¾ ton and also required use of a pipeline for oil transport if oil  
21 production ever reached 350 barrels per day.

22 93. Since 1983, no modifications have been made to Koenigstein Road or the  
23 intersection of Highway 150 and Koenigstein Road that would improve safety at the  
24 intersection.

25 94. The County did not obtain a traffic analysis from a licensed traffic engineer in  
26 connection with the preparation of the SEIR.

27 95. Thus, the Findings supporting the 1983 EIR remain intact.  
28



1           96. Under the Agnew proposal, all access would occur through the use of Koenigstein  
2 Road at its intersection with Highway 150. No mitigation for the unsafe intersection is  
3 proposed. Even so, the SEIR found that the Agnew proposal would not have significant  
4 adverse impacts related to traffic and safety.

5           97. During review of the Agnew proposal, Caltrans submitted comments that  
6 contained concerns about the sight distance along Highway 150 and the turning radius required  
7 to accommodate a right turn onto Koenigstein Road without encroaching into the opposite lane.  
8 Caltrans requested the installation of warning lights and signs on both sides of Koenigstein  
9 Road to mitigate the potential safety impacts.

10           98. The County rejected Caltrans' suggestions and included no mitigation to increase  
11 visibility or warnings about the dangerous intersection.

12           99. The County also rejected CFROG's suggestion that oil be transmitted by pipeline  
13 to avoid the need for oil tanker trucks on Highway 150 and Koenigstein Road.

14           100. Photographs submitted to the County depict large trucks encroaching into the  
15 opposite lane to make the right turn required to transit from Highway 150 to Koenigstein Road.

16           101. The SEIR's conclusions that the Agnew proposal would not result in any  
17 significant traffic and safety hazard are not supported by substantial evidence.

18           102. Additionally, although prohibited by CUP conditions, all oil tanker truck traffic  
19 accessing the Agnew proposal area has used Koenigstein Road since 1993.

20           103. CEQA requires the significant environmental impacts of the Agnew proposal be  
21 mitigated with specific, enforceable conditions.

22           104. The Agnew proposal includes a limitation of eight round-trip or 16 one-way truck  
23 trips per week. However, the Agnew proposal contains no monitoring for this condition.

24           105. The Applicant's past actions and violations should have been taken into  
25 consideration when evaluating whether the Agnew proposal's traffic-related conditions of  
26 approval and mitigation measures would be implemented in the future. (*Laurel Heights*  
27 *Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 420.  
28

1           106. The Applicant's past history of violations renders its compliance with the Agnew  
2 proposal's traffic-related conditions of approval and any mitigation measures speculative, at  
3 best. Thus, the SEIR and Agnew proposal approval fail to contain the required concrete and  
4 enforceable mitigation measures.

5           107. CEQA Guidelines section 15125 provides that the baseline for environmental  
6 review is normally the existing conditions at the Agnew proposal site when the Notice of  
7 Preparation is issued.

8           108. Without use of the proper baseline, an EIR will not accurately compare pre-Agnew  
9 proposal and post-Agnew proposal conditions so that an agency's decisionmakers can  
10 determine whether or not the Agnew proposal will cause significant environmental impacts that  
11 require mitigation.

12           109. The SEIR uses an improper baseline to determine the existing level of truck traffic  
13 through the Agnew proposal site and on Highway 150.

14           110. Instead of using existing conditions, the SEIR uses a baseline of the maximum  
15 number of truck trips allowed under the existing CUP.

16           111. This causes the Agnew proposal's significant increases in truck traffic to appear  
17 insignificant in the environmental analysis, when they are actually significant. The significance  
18 of the Agnew proposal-related increase in truck traffic is exacerbated by the narrow and windy  
19 nature of Highway 150 and the nonstandard intersection geometry at Koenigstein Road.

20           112. This defective analysis extends to the SEIR's analysis of cumulative truck traffic.  
21 By some estimates, the Agnew proposal-related traffic, combined with that of proposed new  
22 wells and reactivated wells at the Nesbitt Lease other sites, would result in an increase in oil  
23 tanker truck use at the intersection from the current 34 trips per year to 527 trips per year. This  
24 is an increase of 1,529 percent.

25           113. The County's failure to disclose the Agnew proposal's actual increase in truck  
26 traffic at this dangerous intersection also results in its failure to provide accurate information to  
27 state agencies, such as Caltrans. Even using the understated traffic impacts disclosed in the  
28

1 SEIR, Caltrans expressed concerns with the safety of truck traffic traveling through the area and  
2 with the use of the intersection of Highway 150 at Koenigstein Road.

3 **d. Piecemeal Review of the Agnew proposal**

4 114. CEQA requires that environmental review documents analyze “the whole of an  
5 action.” (CEQA Guidelines § 15378; see e.g., *Bozung v. Ventura County LAFCO* (1975) 13  
6 Cal.3d 263 [a Agnew proposal must not be segmented by being split into separate pieces,  
7 thereby avoiding comprehensive CEQA analysis of the entire Agnew proposal].

8 115. The court in *Tuolumne County Citizens for Responsible Growth, Inc. v. City of*  
9 *Sonora* (2007) 155 Cal.App.4th 1214, set out three items to be used to determine what  
10 constitutes the whole of a Agnew proposal: (1) relationship in time, (2) physical location; and  
11 (3) the entity undertaking the action. (*Id.* at 1227.).

12 116. In 2012, the Agnew proposal applicant, Mirada Petroleum, also applied for a  
13 modification of its nearby Nesbitt/Harth CUP No. 3319 for approval to drill nine new wells to  
14 be located on the Harth Lease (LU11-0041). Like the Agnew proposal, fluids produced from  
15 the Harth wells are to be trucked by tanker on State Highway 150 using a different access to  
16 highway 150. This application was granted in 2013, in part, due to Mirada’s promise to  
17 abandon per DOGGR regulations its three existing wells on the Nesbitt Lease that did access  
18 Highway 150 from Koengstein Road, thereby abating Mirada’s ongoing violation of that  
19 condition of the Nesbitt/Harth CUP.

20 117. However, those three Nesbitt wells were idled, but not abandoned.

21 118. The County is now also considering Mirada’s application to remove that  
22 abandonment condition from the Nesbitt/Harth CUP and instead authorize the reactivation of  
23 those three wells and use of Koenigstein Road for oil tanker access. Therefore, there are  
24 currently two applications by Mirada to expand its oil production within a mile of one another  
25 and that each will require access on Koneigstein Road for oil tankers.

26 119. Each of the Agnew and Nesbitt/Harth proposals share the same objective of  
27 increasing oil production, during the same time, in close proximity and by the same applicant,  
28

1 Mirada Petroleum. The County's failure to analyze these proposals together is impermissible  
2 segmentation resulting in a piecemealing of environmental review in violation of CEQA.

3 WHEREFORE, Petitioners Pray:

4 1. For an alternative and peremptory writ of mandate, commanding the County:

5 A. To set aside and vacate its certification of the Subsequent Environmental Impact  
6 Report prepared for the Agnew proposal;

7 B. To set aside and vacate any approvals for the Agnew proposal based upon the  
8 Subsequent Environmental Impact Report prepared for the Agnew proposal, including, but not  
9 limited to, the modified conditional use permit; and

10 C. To prepare and certify a legally adequate Subsequent or Supplemental EIR for the  
11 Agnew proposal so that the County will have a complete disclosure document before it,  
12 identifying for the decision-makers and public the potential significant impacts of the Agnew  
13 proposal, and enable it to formulate realistic and feasible alternatives and mitigation measures to  
14 avoid those impacts;

15 D. For an order enjoining the County and Real Parties in Interest from taking any  
16 action in furtherance of the Agnew proposal unless and until a lawful approval is obtained from  
17 the County after the preparation and consideration of an adequate Subsequent or Supplemental  
18 EIR;

19 E. For costs of the suit;

20 F. For reasonable attorneys' fees; and

21 G. For such other and further relief as the Court deems just and proper.

22  
23 Dated: July 21, 2016

Respectfully Submitted,

24 CHATTEN-BROWN & CARSTENS LLP

25  
26  
27 By: 

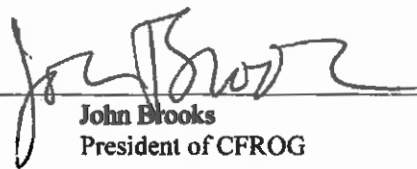
28 Michelle Black  
Attorneys for Petitioners

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**VERIFICATION**

I, the undersigned, declare that I am the John Brooks, president of Citizens for Responsible Oil and Gas, the Petitioner in this action. I have read the foregoing PETITION FOR WRIT OF MANDATE and know the contents thereof, and the same is true of my own knowledge.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 21 day of July 2016, in Ventura County, California.

  
\_\_\_\_\_  
**John Brooks**  
President of CFROG

# EXHIBIT A

**Hermosa Beach Office**  
Phone: (310) 798-2400  
Fax: (310) 798-2402

**San Diego Office**  
Phone: (858) 999-0070  
Phone: (619) 940-4522



**Amy Minter**  
Email Address:  
[acm@cbcearthlaw.com](mailto:acm@cbcearthlaw.com)

Direct Dial:  
310-798-2400 Ext. 3

July 20, 2016

*By U.S. Mail*  
California Attorney General  
300 South Spring Street, Ste. 1700  
Los Angeles, CA 90013

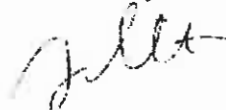
Re: Challenge to the County of Ventura's approval of modification to  
Conditional Use Permit No. 3543; Case No. PL13-0158;  
Certification of Subsequent Environmental Impact Report

Honorable Attorney General:

Please find enclosed a copy of the Petition for Writ of Mandate filed to challenge the to the County of Ventura's approval of a modification of conditional use permit No. 3543 and its certification of a subsequent environmental impact report (SEIR) for that project. The project will permit the construction and operation of three additional oil wells in a remote area of the Upper Ojai Valley. Although the project will authorize conveyance of produced oil in heavy oil tanker trucks on narrow and dangerous roads, and although the project will exceed thresholds of significance for reactive organic compound emissions, the certified SEIR finds that the project will have no significant and unavoidable environmental impacts. Moreover, the project approval fails to include sufficiently concrete and enforceable mitigation to reduce the project's adverse impacts to air quality, traffic, and safety.

This Petition is being provided pursuant to the notice provisions of the Public Resources Code. Please contact me if you have any questions.

Sincerely,



Amy Minter

Enclosure



# EXHIBIT B

**Hermosa Beach Office**  
Phone: (310) 798-2400  
Fax: (310) 798-2402

**San Diego Office**  
Phone: (858) 999-0070  
Phone: (619) 940-4522



**Amy Minter**  
Email Address:  
[acm@cbcearthlaw.com](mailto:acm@cbcearthlaw.com)

Direct Dial:  
310-798-2400 Ext. 3

July 20, 2016

Mark A. Lunn, County Clerk  
County of Ventura  
Hall of Administration, Main Plaza  
800 South Victoria Avenue  
Ventura, CA 93009-1260

**Re: Challenge to the County of Ventura's Approval of a Modification to CUP  
3543; Case No. P:L13-0158; Certification of Subsequent Environmental  
Impact Report**

Dear Mr. Lunn,

Please take notice that Citizens For Responsible Oil & Gas (CFROG) plans to file a Petition for Writ of Mandate challenging the County of Ventura's certification of a SEIR and approval of a modification to conditional use permit No. 3543. CFROG's Petition will allege the County's approval violates the California Environmental Quality Act.

Please call if you have any questions.

Sincerely,



Amy Minter

# EXHIBIT C

1 CHATTEN-BROWN & CARSTENS LLP  
2 Douglas P. Carstens, SBN 193439  
3 Amy Minter, SBN 223832  
4 Michelle Black, SBN 261962  
5 2200 Pacific Coast Hwy, Suite 318  
6 Hermosa Beach, CA 90254  
7 310.798.2400; Fax 310.798.2402

8 Attorneys for Petitioner  
9 Citizens for Responsible Oil & Gas  
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11  
12

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

15 CITIZENS FOR RESPONSIBLE OIL & GAS )

16 Petitioner, )

17 v. )

18 COUNTY OF VENTURA )

19 Respondent. )

20 

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MIRADA PETROLEUM INC; and DOES 1 )  
21 to 10, )

22 Real Parties in Interest. )  
23 )  
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CASE NO.:

**NOTICE OF ELECTION TO PREPARE  
ADMINISTRATIVE RECORD**

(Violation of California Environmental  
Quality Act and County Code)

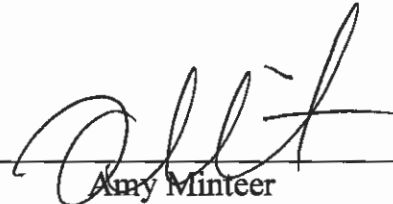
1 PLEASE TAKE NOTICE:

2 Pursuant to Public Resources Code section 21167.6, Petitioner Citizens for Responsible  
3 Oil & Gas hereby elects to prepare the administrative record in this matter.

4  
5 Dated: July 21, 2016

6 Respectfully Submitted,  
7 CHATTEN-BROWN & CARSTENS LLP

8  
9 By: \_\_\_\_\_

  
10 Amy Minter  
11 Attorneys for Petitioners  
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