

1 Marco A. Gonzalez (SBN 190832)  
2 Livia B. Beaudin (SBN 259434)  
3 COAST LAW GROUP, LLP  
4 1140 South Coast Highway 101  
5 Encinitas, CA 92024  
6 Telephone: 760-942-8505  
7 [marco@coastlaw.com](mailto:marco@coastlaw.com)  
8 [livia@coastlaw.com](mailto:livia@coastlaw.com)  
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10 Attorneys for Petitioner  
11 PUVUNGA WETLANDS PROTECTORS  
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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

1 PUVUNGA WETLANDS PROTECTORS, a  
2 California non-profit public benefit  
3 corporation,  
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5 Petitioner,  
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7 v.  
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9 CALIFORNIA COASTAL COMMISSION, a  
10 California public agency; and DOES 1  
11 through 20, inclusive,  
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13 Respondents.

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BEACH OIL MINERALS, LLC, a California limited liability company; LOS CERRITOS WETLANDS AUTHORITY, a joint powers governmental entity; CITY OF LONG BEACH, a municipal corporation; LYON HOUSING (PUMPKIN PATCH) XLV, LLC, a Delaware limited liability company; LOS CERRITOS WETLANDS, LLC, a California limited liability company; and DOES 21 through 40, inclusive,  
  
Real Parties-in-Interest.

Case No.:  
**VERIFIED PETITION FOR WRIT OF MANDATE**  
  
(PUB. RES. CODE §30801; CODE OF CIVIL PROCEDURE §1094.5)

Petitioner PUVUNGA WETLANDS PROTECTORS (“Petitioner”) hereby requests relief as follows:

**INTRODUCTION**

1. On December 13, 2018, the California Coastal Commission (“Commission”) approved a Coastal Development Permit (“CDP”) for a new oil production project within the City of Long

1 Beach (“Project”).

- 2
- 3 2. The Project lies within the Los Cerritos Wetlands (otherwise known as the
- 4 Puvunga Wetlands) complex. The historic Los Cerritos Wetlands is a vast network
- 5 of marshes, mudflats, tidal channels and supporting habitats and a sensitive
- 6 paleontological, archeological and tribal resources area.
- 7 3. The Los Cerritos Wetlands are important for wildlife, including both resident and
- 8 migratory birds. Los Cerritos Wetlands are home to sensitive wildlife and special
- 9 status species that include the western yellow-billed cuckoo, Belding's savannah
- 10 sparrow, tricolored blackbird, light-footed clapper rail, California least tern,
- 11 coastal California gnatcatcher, least Bell's vireo, Santa Ana sucker, and Pacific
- 12 green sea turtle.
- 13 4. As part of the Project, applicant and Real Party Beach Oil Minerals, LLC
- 14 (“BOM”) would receive land from co-applicant and Real Party Los Cerritos
- 15 Wetlands Authority (“LCWA”), as well as property from Real Party Lyon
- 16 Housing (Pumpkin Patch) XLV, LLC for new oil drilling.
- 17 5. In exchange, current oil drilling operations at the Synergy Oil field and the City of
- 18 Long Beach properties would be phased out over a period of 20 years.
- 19 6. Though described as a “new oil production and wetlands restoration project,” in
- 20 reality, for at least the next two decades the Project will result in an 8,000 percent
- 21 increase in potential oil production and will result in the release of an additional
- 22 2.7 million metric tons of carbon dioxide emissions.
- 23 7. The Project would enable the 34 currently active wells to remain active for 10 to
- 24 20 years and would result in the addition of 120 new oil wells. The Project will
- 25 result in an additional 24,000 barrels of oil entering the marketplace on a daily
- 26 basis.
- 27 8. The Project would also result in the construction and operation of a 2,200-foot
- 28 above-ground pipeline that traverses directly over an active fault line.
9. In addition to new oil production equipment, the Project calls for a new office

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- building and warehouse. The office building would be two stories and 5,200 square feet, while the warehouse would be 9,750 square feet and 20-feet in height.
10. Adverse project-related impacts include: (1) risk and consequences of an oil spill occurring adjacent to the wetland complex (with direct connection to the ocean) in a highly seismic-active area; (2) introduction of several new industrial structures that would affect views to and along the shoreline, including two drilling rigs that would be much higher than other structures in the area; (3) permanent loss of 8.49 acres of wetlands; (4) potential for impairment of a relatively pristine remnant tidal slough, Steamshovel Slough, and harm to special status species; (5) the risk and consequences of failure of some or all of the proposed development from seismic and flooding hazards; (6) an increase in greenhouse gas (GHG) emissions of about 70,000 tons per year over emissions generated by the existing oil operations; and (7) potential damage to archeological and paleontological resources and the introduction of new development that is not consistent with the tribal cultural landscape as described by tribal members with a cultural connection to the Los Cerritos wetlands.
11. Of the 150-acre Synergy site, the 73.1-acre southern site contains all of the existing oil production facilities, including wells, above-ground pipelines, tanks, transformers, other production equipment and dirt access roads, as well as the Bixby Ranch Field Office that is used by Synergy Oil. This southern portion of the Synergy site also contains non-tidal wetlands areas and vegetated and non-vegetated flats.
12. The northern portion of the Synergy site contains the 30-acre Steamshovel Slough, a relatively pristine area of southern coastal salt marsh that is separated from the oil operations by an earthen berm. Steamshovel Slough is one of the only remaining remnants of historic tidal marsh areas in Southern California.
13. The proposed restoration activities would be confined to the north portion of the Synergy site, where no active oil wells are located. BOM proposes to expand tidal

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connections to areas south of the existing Steamshovel Slough habitat to facilitate restoration of coastal salt marsh habitat on an approximately 30-acre portion of the Synergy site, and to preserve and enhance existing subtidal and salt marsh habitat within Steamshovel Slough. BOM proposes to fund and manage the restoration site through a mitigation bank.

14. Through a land swap, the LCWA would be the eventual owner and manager of the entire Synergy site. On information and belief, there is currently no funding source earmarked for restoration of the southern half of the Synergy site.

15. Thus, under the Project, only 30 acres of the 150-acre Synergy site would be restored and none of the 33-acre City site would be restored.

16. Because of the Project’s inconsistency with the Coastal Act, the Commission relied on the Section 30260 “override” provision to approve the Project CDP. However, as alleged below, the Project does not qualify for the “override” and will result in numerous adverse impacts to Coastal resources.

17. The Project is inconsistent with the City’s applicable land use plan and numerous Coastal Act provisions.

18. Petitioner accordingly requests that this Court issue a writ of mandate under Cal. Code of Civil Procedure Section 1094.5 directing Respondent to vacate and set aside its approvals of the Project.

**JURISDICTION AND VENUE**

19. This Court has jurisdiction over this action pursuant to California Code of Civil Procedure Section 1094.5, and Public Resources Code Section 30801.

20. Venue for this action properly lies in the Los Angeles County Superior Court because Real Party CITY OF LONG BEACH and the Project are located in Los Angeles County and Respondent COASTAL COMMISSION maintains an office in Long Beach.

**PARTIES**

21. Petitioner PUVUNGA WETLANDS PROTECTORS is, and at all times herein

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mentioned has been, a non-profit public benefit corporation, organized and existing under the laws of the State of California, with its principal place of business in Long Beach, California.

22. Petitioner meets all organizational standing requirements for prosecuting this action. PUVUNGA WETLANDS PROTECTORS mission is to preserve and protect the architectural, historical, environmental and community resources of the city of Long Beach and to guarantee the development of the city be carried out in a manner that reflects the principles of equity, social justice and responsible management of the public’s resources. The interests PUVUNGA WETLANDS PROTECTORS seeks to protect in this action are therefore germane to its fundamental purpose; and PUVUNGA WETLANDS PROTECTORS has a geographical nexus with the affected environment of Long Beach. PUVUNGA WETLANDS PROTECTORS further meets all associational standing requirements for prosecuting this action. Members of PUVUNGA WETLANDS PROTECTORS regularly use the beaches and the ocean waters adjacent to, within, and in close proximity to Project area for activities including but not limited to surfing, paddling, swimming, kayaking, snorkeling, scuba diving, wave watching, bird watching and enjoying the natural aesthetics of the coastal environment. PUVUNGA WETLANDS PROTECTORS 's members are therefore within the class of persons beneficially interested in the subject matter of this action. PUVUNGA WETLANDS PROTECTORS is beneficially interested in the subject matter of this complaint and is adversely affected by Respondent City’s unlawful conduct as more fully alleged below. The injuries of PUVUNGA WETLANDS PROTECTORS , its members and their families and children are actual, concrete injuries which will be redressed by the relief sought herein. PUVUNGA WETLANDS PROTECTORS brings this action on its own behalf, and on behalf of its members who live in Long Beach. The claims asserted and the relief sought in this Complaint do not require that PUVUNGA WETLANDS

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PROTECTORS 's individual members directly participate as parties to this lawsuit.

23. Petitioner brings this action, not just on its own behalf and behalf of its members, but also to enforce important public rights and to compel compliance with public duties that arise under the Coastal Act. Other beneficially interested persons would find it difficult or impossible to seek vindication of the rights asserted. Petitioner has a continuing interest in, and a well-established commitment to, the public rights asserted.

24. Respondent CITY OF LONG BEACH, a California Municipal Corporation, is a local governmental agency and political subdivision of the State of California charged with the authority to regulate and administer land use activities within its boundaries, subject at all times to the obligations and limitations of all applicable state, federal, and other laws, including the Coastal Act. As the California Environmental Quality Act (CEQA) lead agency for the Project, the CITY approved the CEQA environmental determination and associated approvals for the Project.

25. Real Party LOS CERRITOS WETLANDS AUTHORITY is a governmental entity developed in 2006 by a joint powers agreement of the State Coastal Conservancy, the Rivers and Mountains Conservancy and the cities of Long Beach and Seal Beach. LCWA is the lead agency in designing and analyzing alternative scenarios for the entire Los Cerritos Wetlands complex.

26. Petitioner is informed, believes and thereon alleges Real Party LCWA is the owner of the 5-acre property located at the northeast corner of Studebaker Road and 2<sup>nd</sup> Street, APN 7237-019-809.

27. Petitioner is informed, believes and thereon alleges Real Party LYON HOUSING PUMPKIN PATCH XLV, LLC is the owner of the property located at 6701 Pacific Coast Highway, Long Beach, California 90803, APNs 7237-010-043, 7237-010-044, and 7237-010-045 ("Pumpkin Patch" site).

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28. Petitioner is informed, believes and thereon alleges Real Party LOS CERRITOS WETLANDS, LLC is the owner of the property located at 6433 East 2nd Street, Long Beach, California, 90803, APNs 7237-017-010, 7237-017-011, 7237-017-012, 7237-017-013, 7237-017-014, and 7237-017-019 (“Synergy” site).

29. Petitioner is informed, believes and thereon alleges Real Party CITY OF LONG BEACH is the owner of the property located at 2nd Street and Shopkeeper Road, Long Beach, California, 90803, APNs: 7237-020-903 and 7237-020-904 (“City” site).

30. Petitioner is currently unaware of the true names and capacities of Respondents, Does 1 through 20, inclusive, and therefore sue those parties by such fictitious names. Does 1 through 20, inclusive, are agents of the city, state, or federal government who are responsible in some manner for the conduct described in this petition, or other persons or entities presently unknown to Petitioner who claim some legal or equitable interest in the Project that is the subject of this action. Petitioner will amend this petition to show the true names and capacities of Does 1 through 20 when such names and capacities become known.

31. Petitioner is currently unaware of the true names and capacities of Real Parties in Interest, Does 21 through 40, inclusive. Does 21 through 40, inclusive, are persons or entities presently unknown to Petitioner who claim some legal or equitable interest in the Project that is the subject of this action. Petitioner will amend this petition to show the true names and capacities of Does 21 through 40 when such names and capacities become known.

**STATEMENT OF FACTS**

32. The Project involves four different properties:

- The Synergy site: The Synergy site consists of an approximately 150-acre property located at 6433 East 2nd Street.
- The City Property Site: The City Property site is an approximately 33-acre site located at 2nd Street and Shopkeeper Road.
- The Pumpkin Patch Site: The Pumpkin Patch site comprises an approximately 7-acre property located at 6701 Pacific Coast Highway. The site is



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undeveloped except for an oil well and associated pipeline and is used seasonally as a pumpkin patch and Christmas tree lot.

The Los Cerritos Wetlands Authority (“LCWA”) Site: The LCWA site consists of an approximately 5-acre parcel located at the northeast corner of Studebaker Road and 2nd Street.

33. The Project sites are located within two different jurisdictions. All four sites are located within the Coastal Zone and within the City of Long Beach’s Southeast Area Development and Improvement Plan (SEADIP) area.

34. The Pumpkin Patch Site and the LCWA site are located within the portion of SEADIP that is part of the City of Long Beach’s certified Local Coastal Program (LCP). The Synergy site and the City site are also located within the boundary of the SEADIP, but within a portion of the Plan that was not certified by the Commission and is under the direct jurisdiction of the Commission.

35. The Synergy site consists of an active oil field on the southern two-thirds of the site, and wetland and subtidal habitat areas on the northern third of the site. The southern portion of the site includes oil wells, tanks, a network of roads and pipelines and other oil-related infrastructure as well as wetland areas, and vegetated and unvegetated flats. The northern portion of the site includes the approximately 32-acre Steamshovel Slough, the only remaining historic remnant wetland area in the Los Cerritos Wetlands.

36. There is extensive evidence that the entire Los Cerritos Wetlands area is sensitive for paleontological, archeological and tribal resources, potentially including Sacred Lands, Tribal Cultural Landscapes and Traditional Cultural Property, designated as Native American resources by the Native American Heritage Commission.

37. The Gabrieleno-Tongva peoples settled in approximately fifty major villages spread out among the prairie and coastal areas of land that now comprises Los Angeles County and Northern Orange County. The Gabrieleno-Tongva people

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were hunter gatherers who used the local wetlands, rivers and streams to hunt and fish, to gather reeds and willows to build homes and to provide a reliable water source.

38. An important village site of the Gabrieleno-Tongva people called Povuu'ngna (or Puvungna/Puvunga) is located approximately 2 miles from the two proposed oil development sites. This village site is significant to many native peoples as the place where Chungichnish, a lawgiver and deity, provided instruction to the Tongva. A parcel of land on the northwest corner of the California State University Long Beach campus is the site of at least one prehistoric burial and is listed on the National Register of Historic Places. Tribal members currently use the site for ceremonies. At nearby sites, numerous shell middens and other artifacts indicate the presence of native communities.

39. Coastal Act Section 30601.3 provides that when a project requires a CDP from a local government and the Coastal Commission, a single, consolidated CDP for the entire project may be considered by the Commission if the applicant and local government consent to such a process. Both the City of Long Beach and the Project applicants agreed to a consolidated permit.

40. Pursuant to Section 30601.3(b), the standard of review for a consolidated CDP is the Coastal Act Chapter 3 policies, with the certified LCP used as guidance.

41. On January 16, 2018, the City certified the final Environmental Impact Report for the Project, as well as a Zoning Code Amendment, Site Plan Review, Oil Map Amendment and Certificate of Compliance authorizing the Project.

42. The Southeast Area Specific Plan ("SEASP") would replace SEADIP as the specific plan for the Project area. The SEASP Project also removes references to PD-1, a general zoning designation, from the City's local coastal program and, therefore, requires a local coastal program (LCP) amendment to be certified by the Commission.

43. The City approved SEASP on September 19, 2017. A lawsuit challenging the

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City’s approval of the SEASP was settled in full on August 24, 2018.

44. Though the City approved SEASP in 2017, in conjunction with its 2018 approval of the Project, the City passed a resolution and ordinance approving land use changes within the prior specific plan (SEADIP) and authorizing submittal of these changes in the form of an LCP amendment to the Commission. The LCP amendment authorized oil production as an allowable use of the Pumpkin Patch and LCWA sites.

45. On information and belief, the City has not submitted the SEASP to the Coastal Commission for certification of an LCP amendment.

46. Pursuant to SEASP, the Synergy and City sites, as well as an eastern portion of the Pumpkin Patch sites are designated “Coastal Habitat/Wetlands/Recreation.” This use would allow for coastal restoration, access, visitor-serving recreation (boating, public launching, kayaking, paddle boarding, and similar uses that support coastal recreation and access opportunities), and biological reserves. It would allow for ongoing oil operations and encourage consolidation of wells, but require a Conditional Use Permit for new or expanded oil wells.

47. The LCWA site and remainder of the Pumpkin Patch sites are designated “Industrial” land uses under the SEASP.

48. On February 1, 2019, PUVUNGA WETLANDS PROTECTORS sent the COMMISSION and Project applicants BOM and LCWA a Notice of Intent to Sue.

49. Respondent has abused its discretion and failed to proceed in the manner required by law in the following ways:

**FIRST CAUSE OF ACTION**

**Writ of Mandate -- Violation of Coastal Act  
(Public Resources Code § 30000, et seq.)**

50. Petitioner incorporates by reference all preceding paragraphs.

51. The Project conflicts with Chapter 3 of the California Coastal Act, including but

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- not limited to Sections 30231, 30232, 30233, 30240, 30244, 30251, and 30260.
52. Pursuant to the Coastal Act, only certain designated uses are allowed within Coastal wetlands. Other uses are not allowed, regardless of mitigation.
53. The Project allows development of ESHA in violation of the Coastal Act, including, but not limited to, uses not dependent on ESHA resources.
54. In approving the Project, the Commission failed to limit development of wetlands to the uses enumerated in Section 30233 and to require all feasible mitigation measures to minimize adverse environmental impacts to wetlands within the Project area.
55. The Project allows development of ESHA without protecting against significant disruption of habitat values, including, but limited to, implementation of inadequate buffers.
56. In approving the Project, the Commission failed to appropriately characterize, delineate and identify ESHA and wetlands. Development allowed pursuant to the Project may impact ESHA and result in the loss of native vegetation, in violation of the Coastal Act.
57. Section 30244 of the Coastal Act states: “[w]here development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.”
58. In approving the Project CDP, the Commission found the Project would result in potential impacts to paleontological and archeological resources and adverse impacts to cultural resources by approving development that is not consistent with the characterization of the project area as a Tribal Cultural Landscape.
59. The Commission’s imposed Project mitigation measures would partially address but not eliminate these impacts. The Commission found there were no additional “reasonable” mitigation measures available that could fully eliminate this impact and found that because reasonable mitigation measures were imposed, the Project was consistent with Coastal Act Section 30244.

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60. Coastal Act Section 30260 provides:  
Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.

61. Because it found the Project inconsistent with Sections 30262 (Oil and Gas Development) and 30251 (Visual Resources), the Commission resorted to the Section 30260 “override” provision.

62. The Commission abused its discretion in determining the Project met all three tests of Section 30260. The Project failed to meet any of the three tests because: alternative locations were not infeasible or more environmentally damaging; denial of the Project would not adversely affect the public welfare; and the Project’s adverse environmental effects were not mitigated to the maximum extent feasible.


63. The Commission’s own findings indicate the Project’s impacts to paleontological, archeological, and cultural resources were mitigated only to a “reasonable” standard and not to the “maximum extent feasible.”

64. The LCWA currently owns and manages approximately 175 acres of land within the Los Cerritos Wetlands complex for conservation and restoration. Principal goals of the LCWA’s larger restoration efforts include “restoring wetland processes and functions to the maximum extent possible and maximizing contiguous wetland areas.”

65. Rather than meeting the LCWA goals, the Project would allow oil extraction operations to continue on all four sites simultaneously for up to 20 years. The

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Project does not restore wetland processes and functions to the maximum extent possible, nor does it maximize contiguous wetland areas.

66. The Synergy and City sites, as well as a portion of the Pumpkin Patch sites are currently zoned Coastal Habitat/Wetlands/Recreation under the SEASP. Not only is the Project inconsistent with the Commission's failure to assess the SEASP P  Commission's finding that denial of the Project would adversely affect the public welfare.

67. In light of the Project's adverse environmental impacts, inconsistency with the SEASP land use designations, and speculative long-term benefits, as well as the availability of alternative locations for the Project or Project components, the Commission abused its discretion in relying on the Section 30260 override provision to approve the Project.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays for relief as follows:

1. Alternative and preemptory writs of mandate, commanding Respondent to vacate and set aside its approval of the Project;
2. For an order enjoining Respondent from taking any action to issue the CDP for the Project or allow the alteration or development of the Project site in any way that could result in a significant adverse impact on the environment unless and until a lawful CDP is obtained;
3. Costs of the suit;
4. Attorneys' fees as allowed by law, including under to the Code of Civil Procedure section 1021.5; and
5. Such other and further relief as the Court deems just and proper.

Dated: February 11, 2019

COAST LAW GROUP, LLP

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Livia B. Beaudin  
Attorneys for Petitioner,  
PUVUNGA WETLANDS PROTECTORS

