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18 COASTAL ENVIRONMENTAL RIGHTS FOUNDATION and SAN DIEGO COASTKEEPER

19 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

20 **COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION**

21 COASTAL ENVIRONMENTAL RIGHTS) **CASE NO.**
22 FOUNDATION, a California non- profit public)
23 benefit corporation; SAN DIEGO)
24 COASTKEEPER, a California non-profit public)
25 benefit corporation,)
26) **VERIFIED PETITION FOR WRIT OF**
27) **MANDAMUS**
28) **[California Environmental Quality Act]**
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1 POSEIDON RESOURCES CORPORATION, a)
2 Delaware corporation; POSEIDON WATER,)
3 LLC, a Delaware limited liability company;)
4 CABRILLO POWER I, LLC, a Delaware limited)
5 liability company; and CARLSBAD)
6 MUNICIPAL WATER DISTRICT, a municipal)
7 water district;)

8 Real Parties-in-Interest.

9 **I.**

10 **INTRODUCTION**

11 1. The COASTAL ENVIRONMENTAL RIGHTS FOUNDATION, (hereinafter "CERF"),
12 and SAN DIEGO COASTKEEPER (hereinafter "COASTKEEPER") bring this action in the public
13 interest to challenge the CITY OF CARLSBAD's (hereinafter "CITY") approval of amendments to
14 POSEIDON RESOURCES (CHANNELSIDE) LLC's (hereinafter "POSEIDON") Carlsbad Desalination
15 Project (hereinafter "Project") and delivery pipelines, and certification of an addendum (hereinafter
16 "Addendum") to the Environmental Impact Report ("EIR").

17 2. The CITY's approvals permit changes to the Project, including delivery pipelines in the
18 CITY OF CARLSBAD and adjoining cities. This action claims approval of the Addendum by the CITY
19 was inconsistent with the California Environmental Quality Act (hereinafter "CEQA"). Therefore, the
20 CITY's approval of the Project was both procedurally and substantively illegal, and must be overturned.

21 **II.**

22 **JURISDICTION**

23 3. Jurisdiction is proper under Code of Civil Procedure sections 1085, 1094.5, 187, and 526
24 and Public Resources Code sections 21168 and 21168.5. Venue is proper pursuant to California Code of
25 Civil Procedure section 393. The proposed project is located in CITY, and CITY acts as lead agency in
26 approving the Project pursuant to Public Resources Code section 21067.

27 4. Petitioners have complied with the requirements of Public Resources Code section
28 21167.5 by mailing a written notice of the commencement of this action to the CITY prior to the filing
of this Petition. A copy of the prior written notice provided to the CITY, with proof of service thereof is

1 attached hereto as Exhibit A.

2 **III.**

3 **PARTIES**

4 5. Petitioner CERF is, and at all times herein mentioned has been, a non-profit public
5 benefit corporation, organized and existing under the laws of the State of California, with its principal
6 place of business in Encinitas, California. CERF meets all standing requirements for prosecuting this
7 petition. CERF is beneficially interested in the subject matter of this petition for writ of mandamus and
8 will be adversely affected by the environmental impacts of this project.

9 6. CERF is an environmental organization dedicated to the protection and enhancement of
10 coastal natural resources and the quality of life for coastal residents, including the coastline and lagoons
11 in and around Carlsbad. CERF engages in community activism, and participates in governmental
12 hearings for the past, present, and future environmental impacts on the oceans and beaches. The interests
13 CERF seeks to protect in this petition are germane to its fundamental purpose. Members of CERF
14 regularly use the beach and the lagoon areas adjacent to the Project location for recreation including
15 surfing, fishing, hiking, sunbathing, water sports, and passively enjoying nature. Thus, CERF has a
16 geographical nexus with the affected environment and its members are within the class of persons
17 beneficially interested in the subject matter of this petition.

18 7. The injuries of CERF, its members and their families and children are actual, concrete
19 injuries and would be redressed by the relief sought herein. CERF brings this petition on its own behalf,
20 on behalf of its members who live in California. The claims asserted and the relief requested in this
21 petition do not require that CERF'S individual members directly participate as parties to this lawsuit.

22 8. Petitioner COASTKEEPER is, and at all times herein mentioned has been, a non-profit
23 public benefit corporation, organized and existing under the laws of the State of California, with its
24 principal place of business in San Diego, California. COASTKEEPER meets all standing requirements
25 for prosecuting this petition for writ of mandamus, is beneficially interested in the subject matter of this
26 petition, and will be adversely affected by the environmental impacts of this project. Much of
27 COASTKEEPER's work is focused on protection of water resources, including the coast and lagoons in
28 and around Carlsbad. COASTKEEPER engages in community activism, participates in governmental
hearings, and educates the public about environmental impacts on oceans and beaches. The interests that

1 COASTKEEPER seeks to protect with this writ are germane its fundamental purpose. Members of
2 COASTKEEPER regularly use the beach and the lagoon areas adjacent to the Project location for
3 recreation including surfing, fishing, hiking, sunbathing, water sports, and passively enjoying nature.

4 9. The injuries of COASTKEEPER, its members and their families and children are actual,
5 concrete injuries and would be redressed by the relief sought herein. COASTKEEPER brings this
6 petition on its own behalf, and on behalf of more than 300 members who live in San Diego County.
7 The claims asserted and the relief requested in this petition do not require that COASTKEEPER's
8 individual members directly participate as parties to this lawsuit

9 10. Petitioners are informed, believe and thereon allege that respondent CITY is a California
10 municipal corporation, organized and existing under the laws of the State of California, with its principal
11 place of business in Carlsbad, California. Respondent is a lead under the California Environmental
12 Quality Act (CEQA), Public Resources Code section 21067. The CITY has discretionary approval power
13 over POSEDON's construction and operation of the Project within the CITY. The Project is located
14 within CITY jurisdictional limits, and required several discretionary approvals from CITY. Such
15 approvals include amendments to the Precise Development Plan, Encina Specific Plan, Development
16 Agreement, Redevelopment Permit, and Habitat Management Permit. The CITY Housing and
17 Redevelopment Commission further approved the Addendum and an amendment to the Redevelopment
18 Permit.

19 11. Petitioners are further informed, believe and thereon allege CITY has the option to
20 purchase the Project from POSEIDON after the 30 year term of its water supply agreement with
21 POSEIDON expires, and maintains the right of first refusal to buy Project if POSEIDON sells the
22 Project. Petitioners are informed, believe and thereon allege that CITY retains land use control over the
23 Project site, will gain approximately 2 million dollars in new property tax revenue, and will gain three
24 key parcels of land adjacent to Agua Hedionda Lagoon as a result of this project. Therefore, CITY also
25 has a beneficial interest in the proposed Project.

26 12. Petitioners are informed, believe, and thereon allege real party-in-interest POSEIDON
27 RESOURCES, (CHANNELSIDE) LLC, the Project applicant, is a Delaware limited liability company
28 headquartered in Stamford Connecticut, and registered and operating in the State of California.
Petitioners are informed, believe, and thereon allege real party-in-interest POSEIDON RESOURCES

1 CORPORATION is a Delaware corporation headquartered in Stamford Connecticut, and registered and
2 operating in the State of California. Petitioners are informed, believe, and thereon allege real party-in
3 interest POSEIDON WATER, LLC is a Delaware limited liability company headquartered in Stamford
4 Connecticut, and registered and operating in the State of California. (Collectively, real parties-in-interest
5 referenced in this paragraph shall hereinafter be referred to as "POSEIDON" or "POSEIDON RPIs")
6 Petitioners are informed, believe, and thereon allege POSEIDON RPI's are affiliates, subsidiaries, or
7 parents of each other and share the same business address per filings with the California Secretary of
8 State, and that POSEIDON RPIs have a beneficial interest in the CITY's approval of the Project.

9 13. Petitioners are informed, believe and thereon allege real party-in-interest CARLSBAD
10 MUNICIPAL WATER DISTRICT is a subsidiary municipal water district of the CITY, formed pursuant
11 to the Municipal Water District Law of 1911, California Water Code section 71000 et seq. According to
12 POSEIDON, CARLSBAD MUNICIPAL WATER DISTRICT has entered into public-private
13 partnerships with POSEIDON and a signed long-term purchase agreement to receive approximately 50
14 percent of the desalinated water from the Project. CARLSBAD MUNICIPAL WATER DISTRICT
15 therefore has a beneficial interest in the approval of the Project.

16 IV.

17 PRELIMINARY FACTS

18 14. At issue is the CITY's Addendum to EIR, State Clearinghouse No. 2004041081, certified
19 on June 13, 2006. Subsequent to certification of the EIR, CITY approved the Precise Development Plan,
20 Encina Specific Plan, Development Agreement, Redevelopment Permit, and Habitat Management Plan
21 Permit for the Project, and the CITY's Housing and Redevelopment Commission further approval of the
22 Addendum and amendment to the Redevelopment Permit. The Addendum, approved by the CITY on
23 September 15, 2009, concerned changes to the Project and its water delivery pipelines since EIR
24 certification in 2006.

25 15. The EIR analyzed environmental impacts of the Project and delivery pipelines. In 2008,
26 POSEIDON proposed changes to the configuration, size, orientation, and various other physical changes
27 to the Project and appurtenant facilities. POSEIDON further proposed changes to the alignment, size,
28 points of connection, and various other characteristics of portions of the pipeline delivery route,

1 including new routes into adjoining cities.

2 16. The CITY prepared an Addendum to analyze the proposed amendments to the Project
3 pursuant to CEQA and to explain the CITY's decision not to prepare a subsequent or supplemental EIR
4 (collectively "SEIR").

5 17. POSEIDON and CABRILLO have entered into a Ground Lease and Easement allowing
6 construction of the Project and use of the land and infrastructure for approximately 33 years from the
7 anniversary of the commercial operation date of the Project, with an option to extend the term for up to
8 two consecutive additional periods of ten years.

9 18. Encina uses a technology, known as once-through cooling, by which seawater is drawn
10 from the ocean, circulated through the power plant to cool its generators, and discharged back into the
11 ocean at an increased temperature. Encina uses an open-ocean intake to draw its cooling water from the
12 Agua Hedionda Lagoon. The Project will utilize the Encina cooling water intake infrastructure to draw
13 in source water for the Project's desalination process and for dilution of the Project's discharge.

14 19. The proposed Project would be "co-located" with the power plant, meaning it would be
15 constructed adjacent to the power plant and share the intake and discharge outfall channel with Encina.

16 20. On September 14, 2007, CABRILLO submitted an application to the California Energy
17 Commission to replace the existing power station with a new plant, which CABRILLO expects will be
18 operating by 2010. This new power plant would be dry-cooled, as opposed to using once-through
19 cooling. Dry-cooling eliminates the need to draw in ocean water for cooling purposes. CABRILLO
20 proposes to keep two of the five units in the existing station online beyond 2010 to provide additional
21 grid reliability if needed.

22 21. The Project will require 304 million gallons per day ("MGD") of lagoon source water in
23 order to produce 50 MGD of potable water. Approximately 100 MGD will be used for the desalination
24 process, with the remainder required to provide dilution of the desalination by-product, also called
25 "brine", to be discharged to the Pacific Ocean.

26 22. Currently, Encina's intake volume is insufficient to meet the Project's source water needs,
27 and Encina's intake volume will decrease further when the new power plant is built. CABRILLO
28 anticipates upon construction of its new power plant the two remaining units will operate only a few

1 weeks per year. At times when the current power plant is shut down or draws less than 304 MGD, the
2 Project would run the intake pumps to satisfy Project intake needs.

3 23. By co-locating with Encina, the Project will perpetuate the use of the open-ocean intake
4 infrastructure currently used for once-through cooling.

5 24. Once-through cooling technology has been recognized as harmful to the marine
6 environment because it causes significant impingement and entrainment of marine organisms.
7 Cumulatively, use of once-through cooling technology at power plants throughout the State of California
8 has been found to have caused significant, if not devastating, harm to the marine environment.

9 25. The Project would kill marine organisms through entrainment, which occurs when
10 organisms found in the source water are drawn into the plant through the seawater intake, and by
11 impingement, which is the pinning of marine organisms against intake screens. The Project would kill at
12 least 2.11 pounds or 96,000 individual marine organisms per day. Over the expected 30-year life of the
13 Project this correlates to over 23,000 pounds or over 1 billion organisms.

14 26. The California State Water Resources Control Board (hereinafter, "SWRCB") is in the
15 process of finalizing a policy for power plants that use once-through cooling technology. The goal of the
16 SWRCB effort is to adopt a statewide policy to implement federal Clean Water Act section 316(b), the
17 statute which seeks to control the harmful effects of power plant once-through cooling water intake
18 structures on marine and estuarine life.

19 27. The Project will require approximately 274,400 megawatt-hours of electricity per year to
20 desalinate water. This equates to approximately 97,165 metric tons of carbon dioxide emission per year.
21 The Project will be the most energy-intensive means of producing drinking water in the State of
22 California.

23 28. Subsequent to the CITY's certification of the EIR and approval of the Project in June
24 2006, the State Lands Commission, California Coastal Commission, and Regional Water Quality
25 Control Board (hereinafter "Regional Board") reviewed and approved the Project. All three of the
26 aforementioned agencies required 55.4 acres of wetland mitigation for the Project's entrainment impacts
27 to marine life.

28 29. The Regional Board found impingement impacts of at least 4.7 kilograms of marine

1 organisms per day, or 1715 kilograms per year.

2 **V.**

3 **PROCEDURAL HISTORY**

4 30. As Lead Agency pursuant to the California Environmental Quality Act, on or about June
5 13, 2006, CITY certified a Final Environmental Impact Report (EIR) to support various CITY approvals
6 required for construction and operation of the Project. The CITY's approvals consisted of a Precise
7 Development Plan (PDP 00-02), the Encina Specific Plan (SP 144), a Development Agreement (DA 05-
8 01), a Habitat Management Permit (HMP 05-08), and a Redevelopment Permit (RP 05-12). The EIR
9 concluded impacts to the marine environment would be less than significant. The EIR did not include an
10 analysis of greenhouse gas emissions resulting from Project operations and electricity consumption.

11 31. In 2006, the California legislature passed, and the Governor signed, the Global Warming
12 Solutions Act of 2006 (AB 32). In 2007, Senate Bill 97 was passed, explicitly recognizing that
13 greenhouse gas emissions are an important environmental issue requiring analysis under CEQA.

14 32. On November 15, 2007, the California Coastal Commission (hereinafter "Coastal
15 Commission") conditionally approved a Coastal Development Permit for the Project. In doing so, the
16 Coastal Commission refused to accept the CITY's FEIR conclusion that the Project would have no
17 significant impacts upon marine life or the marine environment, and required POSEIDON to propose a
18 comprehensive Marine Life Mitigation Plan (hereinafter "MLMP") to address the impacts.

19 33. As part of its November 15, 2007 conditional approval, the Coastal Commission also
20 required POSEIDON to prepare an Energy Minimization and Greenhouse Gas Reduction Plan
21 (hereinafter "GHG Reduction Plan").

22 34. On August 6, 2008, the Coastal Commission issued a final project approval requiring
23 POSEIDON to offset its GHG emissions to become "net carbon neutral" and submit annual GHG
24 monitoring reports.

25 35. On August 6, 2008, the Coastal Commission also adopted a modified version of the
26 MLMP proposed by POSEIDON. The Coastal Commission determined the Project would negatively
27 impact marine life through impingement and entrainment, resulting in 37 acres of Agua Hedionda
28 Lagoon habitat production foregone. The Coastal Commission required the creation of up to 55.4 acres

1 of wetland habitat as a condition of approval of POSEIDON's coastal development permit.

2 36. At its August 22, 2008 meeting, the State Lands Commission granted POSEIDON a
3 Lease Amendment requiring compliance with the mitigation measures recently adopted by the Coastal
4 Commission. The State Lands Commission 's Lease Amendment required up to 55.4 acres of wetlands
5 restoration.

6 37. The State Lands Commission also imposed a requirement in the Lease Amendment that
7 POSEIDON comply with the provisions of the GHG Reduction Plan as adopted by the Coastal
8 Commission. The State Lands Commission required that POSEIDON offset an additional 25,000 metric
9 tons of greenhouse gas emissions from construction and Project operations.

10 38. Neither the significant marine life impacts nor the greenhouse gas emissions, for which
11 mitigation requirements were adopted by Coastal Commission or State Lands Commission were
12 considered or addressed in the CITY's EIR or any other CEQA-compliant document.

13 39. On August 29, 2008, State Lands Commission filed a Notice of Determination pursuant
14 to 14 Cal. Code Regs. section 15075, stating that the State Lands Commission had considered and
15 adopted the EIR as prepared by the CITY.

16 40. In or around December 2008, POSEIDON proposed various changes to the Project and
17 pipeline delivery routes and requested a consistency determination from the CITY, pursuant to the CITY
18 Planning Department Administrative Policy 35. Policy 35 consists of criteria for determination of a
19 requested project revision's consistency with the original project approval; and procedures for
20 processing a consistency determination request. The CITY staff determined the Project and delivery
21 pipeline changes did not qualify for a consistency determination.

22 41. On May 13, 2009, the Regional Board approved POSEIDON's Flow, Entrainment and
23 Impingement Minimization Plan (hereinafter "Flow Plan"), required as a condition of POSEIDON's
24 National Pollution Discharge Elimination System (hereinafter "NPDES") Permit. The Flow Plan allows
25 POSEIDON to operate the Project under various operational scenarios in conjunction with Encina.

26 42. Subsequent to the CITY's decision regarding the consistency determination, the CITY
27 prepared an Addendum pursuant to CEQA Guideline section 15164. The Addendum was released for
28 public comment on August 14, 2009. On August 19, 2009 the CITY Planning Commission held a public

1 hearing on the Project and delivery pipeline changes, passing resolutions recommending CITY approval.

2 43. On September 15, 2009, the CITY held a public hearing to consider the Project and
3 delivery pipeline changes. The CITY approved the Addendum and approved amendments to the Precise
4 Development Plan, Encina Specific Plan, Development Agreement, Redevelopment Permit, and Habitat
5 Management Permit. The CITY's Housing and Redevelopment Commission further approved the
6 Addendum and approved an amendment to the Redevelopment Permit.

7 44. On September 16, 2009, the CITY filed a Notice of Determination, pursuant to CEQA
8 Guideline section 15164, for its approval of the Addendum and amendments to the Precise
9 Development Plan, Encina Specific Plan, Development Agreement, Redevelopment Permit, and Habitat
10 Management Permit, and the Housing and Redevelopment Commission approval of the Redevelopment
11 Permit.

12 VI.

13 PRELIMINARY ALLEGATIONS

14 45. Petitioners exhausted all administrative remedies prior to filing this action. The CITY's
15 determination is final and no further administrative appeal procedures are provided by State or local law.

16 46. Petitioners and their members timely raised each and every significant substantive and
17 procedural issue known to them in compliance with Public Resources Code section 21177 during the
18 review process for the Project and delivery pipeline changes. Petitioners objected to approval of the
19 Addendum, the Planning Commission's recommendation of approval of amendments to the Precise
20 Development Plan, Encina Specific Plan, Development Agreement, Redevelopment Permit, and Habitat
21 Management Plan Permit in writing and orally at a public hearing on August 19, 2009. Petitioners
22 objected to the CITY's approval of the Addendum, and approval of amendments to the Precise
23 Development Plan, Encina Specific Plan, Development Agreement, Redevelopment Permit, and Habitat
24 Management Plan Permit, and the Housing and Redevelopment Commission approval of Addendum and
25 amendment to the Redevelopment Permit, in writing and orally at a public hearing on September 15,
26 2009. Each issue raised in this petition was presented to Respondent CITY either orally or in writing by
27 Petitioners, members of the public, or both, prior to the close of the CITY's public hearing.

28 47. Petitioners do not have a plain, speedy, and adequate remedy in the ordinary course of

1 law.

2 48. If the CITY's approvals are allowed to be implemented, Petitioners and their members'
3 recreational, aesthetic, scientific, educational, conservation and economic interests will be adversely
4 affected by construction and operation of the Project, leading to irreparable injury. Imposition of a stay is
5 not against the public interest because environmental review has not been completed, and negative
6 adverse impacts to the environment will result if the project moves forward as planned. A stay is in the
7 public interest because implementing the project will violate CEQA and result in significant adverse
8 environmental impacts.

9 49. There is a probability that Petitioners will prevail on the merits. The Court should issue a
10 temporary restraining order, preliminary injunction and permanent injunction ordering respondent to
11 suspend all activities implementing the project until the Court, by way of return writ, adjudicates that the
12 CITY has fully complied with all requirements of the California Environmental Quality Act.

13 50. Petitioners are entitled to attorneys' fees pursuant to Code of Civil Procedure section
14 1021.5 in that:

15 a. The successful disposition of this lawsuit will result in the enforcement of
16 important rights affecting the public interest and will confer significant benefits upon the public or a
17 large class of persons. Petitioners seek to enforce provisions of important state environmental laws for
18 the benefit of the public;

19 b. The necessity and financial burden of private enforcement are such as to make the
20 award appropriate; and

21 c. Such fees will not be paid out of any recovery.

22
23 **VII.**

24 **FIRST CAUSE OF ACTION**
25 **(WRIT OF MANDATE/CEQA: MARINE LIFE IMPACTS)**

26 51. Petitioners incorporate all previous paragraphs as if fully set forth herein.

27 52. The CITY prejudicially abused its discretion and failed to fulfill its duties under CEQA in
28 approving the Project and delivery pipeline changes and certifying the Addendum. The CITY's

1 approvals are invalid under Code of Civil Procedure section 1094.5 because the CITY failed to proceed
2 in the manner required by law and its findings, determinations, or decisions are not supported by
3 substantial evidence in light of the whole record.

4 53. The CEQA Guidelines, section 15162(a) require production of a Subsequent EIR when:

5 a. Substantial changes occur with respect to the project that will result in new or
6 increased significant environmental impacts;

7 b. Substantial changes occur with respect to the circumstances under which the
8 project is undertaken that involve new or increased significant environmental impacts; or,

9 c. Important new information is obtained that shows the project will have one or
10 more significant effect not previously discussed, mitigation measures previously found infeasible would
11 in fact be feasible, or new feasible mitigation measures not previously considered are declined by the
12 applicant.

13 54. The CITY inappropriately relied upon the previously certified 2006 EIR and
14 inappropriately approved the Addendum, despite the EIR and Addendum's inaccurate finding of no
15 significant environmental impact to marine life.

16 55. The Coastal Commission's identification, and the State Lands Commission and Regional
17 Board's affirmation, of significant marine life environmental impacts and imposition of mitigation
18 therefor, neither of which occurred via the previously certified EIR, constitute substantial changes with
19 respect to the project, substantial changes with respect to the circumstances under which the project is
20 undertaken, and important new information showing the project will have one or more significant effects
21 not previously discussed. Pursuant to Public Resources Code section 21166 and CEQA Guidelines
22 section 15162(a), the CITY was required to produce a subsequent or supplemental EIR to address these
23 changes.

24 56. The Regional Board 2009 approval of the Flow Plan requires changes to the Project and
25 circumstances surrounding the Project which involve new or substantially increased significant
26 environmental impacts to marine life through impingement and entrainment. Pursuant to Public
27 Resources Code section 21166 and CEQA Guidelines section 15162(a), the CITY was required to
28 produce a subsequent or supplemental EIR to address these changes.

1 determinations, or decision are not supported by substantial evidence in light of the whole record.

2 65. The CITY inappropriately relied upon the CITY's previously certified 2006 EIR, and
3 approved the Project and Addendum, despite the CITY's failure to consider, assess, or mitigate the
4 impacts from greenhouse gas emissions in the EIR. The CITY further failed to Addendum.

5 66. The emissions of greenhouse gasses from the Project will be extensive, will cause a
6 significant environmental impact, and will contribute to the impacts of global warming.

7 67. The passage of the Global Warming Solutions Act of 2006 (AB 32) and the requirements
8 of SB 97 (2007) constitute a change in circumstances under which the project is being undertaken that
9 resulted in the identification of increased significant environmental impacts.

10 68. Through the Coastal Commission and State Land Commission reviews, important new
11 information regarding greenhouse gas emissions from the Project and the resultant significant adverse
12 impacts show the Project will have one or more significant effect not previously discussed in the EIR.

13 69. The CITY failed to analyze the Project's green house gas emissions and cumulative
14 impacts thereof in the Addendum. The CITY's recognition of the Coastal Commission and State Lands
15 Commission's adoption of greenhouse gas mitigation measures does not substitute for nor constitute
16 CEQA compliance.

17 70. The CITY failed to prepare a Supplemental or Subsequent EIR to address Project
18 greenhouse gas emissions and their impacts as required by Public Resources Code section 21166 and
19 CEQA Guideline Section 15162.

20 71. The CITY further failed to find the Project's green house gas emissions a significant
21 effect on the environment as required by CEQA Guideline section 15065(a).

22 **X.**

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Petitioners pray:

25 1. For an immediate stay of all construction activities, approvals, permit processing or any
26 other activities related to, or dependent on the CITY's approval of the project described above.

27 2. For the Court to issue a peremptory writ of mandamus directed to the CITY setting aside
28 its approval of the Project and Addendum.

1 3. For a temporary restraining order, preliminary injunction and permanent injunction,
2 ordering POSEIDON to suspend all activities implementing the project until the Court, by way of return
3 writ, adjudicates that the CITY has fully complied with all requirements of CEQA.


4 4. For reasonable attorneys fees.

5 5. For costs incurred herein.

6 6. For any other relief that the court deems necessary and proper.

7
8
9 DATED: October 16, 2009

COAST LAW GROUP LLP



Marco A. Gonzalez
Attorney for Petitioners,
CERF and SAN DIEGO COASTKEEPER

1
2
3 **VERIFICATION**

4 I, SARA HONADLE, declare:

5 I am a representative of Coastal Environmental Rights Foundation, a California public benefit
6 corporation organized and existing under the laws of California. Coastal Environmental Rights
7 Foundation is a petitioner in the above-entitled action, and I have been authorized to make this
8 verification on its behalf.

9 I have read the foregoing Petition for Writ of Mandamus and know the contents thereof. The
10 same is true of my own knowledge except as to those matters which are alleged on information and
11 belief, and as to those matters I believe them to be true.

12 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is
13 true and correct and that this verification was signed on the 16th day of October, 2009 in Encinitas,
14 California.

15
16 

17 _____
18 Sara Honadle
19 Authorized Representative
20 Coastal Environmental Rights Foundation
21
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1
2
3 **VERIFICATION**

4 I, BRUCE REZNIK, declare:

5 I am the Executive Director of San Diego Coastkeeper, a California public benefit corporation
6 organized and existing under the laws of California. San Diego Coastkeeper is a petitioner in the above-
7 entitled action, and I have been authorized to make this verification on its behalf.

8 I have read the foregoing Petition for Writ of Mandamus and know the contents thereof. The
9 same is true of my own knowledge except as to those matters which are alleged on information and
10 belief, and as to those matters I believe them to be true.

11 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is
12 true and correct and that this verification was signed on the 16th day of October, 2009 in Encinitas,
13 California.

14
15 
16 Bruce Reznik
17 Executive Director
18 San Diego Coastkeeper
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