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PACIFICANS FOR A SCENIC COAST

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

PACIFICANS FOR A SCENIC COAST, an  
unincorporated association,

Petitioner,

v.

CALIFORNIA DEPARTMENT OF  
TRANSPORTATION; and DOES 1 through  
10,

Respondents.

SAN MATEO COUNTY  
TRANSPORTATION AUTHORITY; CITY  
OF PACIFICA, and DOES 11 through 50,

Real Parties in Interest.

Case No.: CIV 523973

**PETITIONER'S SECOND NOTICE OF  
NEW AUTHORITY**

ASSIGNED FOR ALL PURPOSES TO  
HON. MARIE S. WEINER, DEPT. 2

**CEQA**

1           Petitioner Pacificans for a Scenic Coast hereby submits notice of the following new  
2 California Supreme Court decision: *Center For Biological Diversity v. California Department*  
3 *Of Fish And Wildlife (Newhall Land And Farming Company)*, No. S217763, 2015 WL 7708312  
4 (Cal. November 30, 2015) (“Newhall”) (attached), which will become final after 30 days  
5 pursuant to California Rules of Court, Rule 8.532. *Newhall* is relevant to the following  
6 arguments pending before this Court.  
7

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9  
10 Analyzing Significance of Greenhouse Gas Emissions

11 1. *Newhall* at \*4 addresses that CEQA Guideline, 14 CCR 15064.4 requires that a lead  
12 agency should attempt to “describe, calculate or estimate” the amount of greenhouse gases the  
13 project will emit. *Newhall* at \*7 clarifies that 14 CCR 15064.4 was intended “to assist lead  
14 agencies” in investigating and disclosing “all that they reasonably can” regarding a project's  
15 greenhouse gas emissions impacts.  
16

17           This discussion is relevant to Petitioner’s argument that Caltran’s EIR violated CEQA  
18 by failing to consider, or determine the significance of, greenhouse gas emissions impacts, as  
19 required by Guideline 15064.4 (AR 811), and that it impermissibly determined that it was “too  
20 speculative to make a determination regarding the significance of the project’s direct impact  
21 and its contribution on the cumulative scale to climate change.” (AR814). *See* Opening Brief  
22 at pp. 19-20 & Reply Brief at p. 31:10 - 32:3.  
23

24 2. *Newhall* at \*4 & \*7 addresses the *Newhall* EIR’s attempt to quantify GHG emissions  
25 by using a threshold of significance of whether that project’s emissions would impede  
26 California’s compliance with AB 32’s reduction mandate. Further, *Newhall* at \*34, fn. 4, notes  
27 that the CEQA Guidelines are mandated to provide “criteria for public agencies to follow in  
28 determining whether or not a proposed project may have a ‘significant effect on the  
29  
30

1 environment.’ (§ 21083, subd. (b).)”

2           These discussions are relevant to Petitioner’s argument that Caltran’s EIR violated  
3 CEQA by failing to identify a “threshold of significance” for GHG emissions. (CEQA  
4 Guideline 15064.4, subd. (b).) *See* Reply Brief at 32:5 – 32:12.  
5

6  
7 Disclosure that San Francisco Garter Snake is a Fully Protected Species

8 3.       *Newhall* at \*16 recognizes that “fully protected species” are subject to stricter  
9 prohibitions under the Fish and Game Code than provided under the Endangered Species Act,  
10 including an express prohibition on “take.”  
11

12           This discussion is relevant to Petitioner’s argument that Caltran’s EIR violated CEQA  
13 by failing to disclose that the San Francisco garter snake is a fully protected species for which  
14 any take is prohibited by law, and failing to consider any mitigation to avoid illegal take. *See*  
15 Opening Brief at pp. 23:2 – 24:7 & Reply Brief at p. 39:20 - 39:27.  
16

17  
18 Courts Role in Interpreting CEQA

19 4.       *Newhall* at \*22 notes that even if Newhall Ranch offered the environmentally best  
20 means of housing California’s growing population, CEQA’s requirements for informing the  
21 public and decision makers of adverse impacts, and for imposition of valid, feasible mitigation  
22 measures, would still need to be enforced.  
23

24           This discussion is relevant to Caltrans’ argument that the proposed project would  
25 improve peak-period travel times, provide operational improvements and decrease congestion,  
26 and fulfill a stated goal of San Mateo County’s Measure A. *See* Caltrans Opposition Brief at  
27 pp. 1:7, 1:28, 3:6.  
28

LAW OFFICES OF BRIAN GAFFNEY APC



Dated: December 14, 2015

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Brian Gaffney  
Attorney for Petitioner  
PACIFICANS FOR A SCENIC COAST

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1 **PROOF OF SERVICE**

2 I am a citizen of the United States, employed in the County of San Mateo, State of  
3 California. My business address is 446 Old County Road, #100-310, Pacifica, California  
4 94044. I am over the age of 18 years and not a party to the above entitled action. On  
5 December 14, 2015, I served the **Petitioner’s Second Notice of New Authority** on all parties  
6 in said action by:

7  
8 [X] By First Class Mail: In the ordinary course of business, I caused each such envelope to  
9 be placed in the custody of the United States Postal Service, with first-class postage thereon  
10 fully prepaid in a sealed envelope addressed as follows:

11 [X] By Electronic Service: I caused the above listed documents to be delivered  
12 electronically via email.

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23 Celeste C. Langille  
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25 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
26 true and correct. Executed on December 14, 2015, at Pacifica, California

27 

28 Brian Gaffney  
29  
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