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16 SOUTH FRESNO COMMUNITY ALLIANCE

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF FRESNO**

19
20 SOUTH FRESNO COMMUNITY
21 ALLIANCE,

22 Petitioner and Plaintiff,

23 v.

24 CITY OF FRESNO; CITY COUNCIL OF
25 FRESNO; and DOES 1 – 20,

26 Respondents and Defendants.

Case No. 21CECG03237

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

CCP §§ 1094.5, 1085, and 1060; Pub. Res.
Code § 21000 et seq. (“CEQA”)

1 **INTRODUCTION**

2 1. This action challenges the September 30, 2021 decision of the City of Fresno and
3 its City Council (collectively, “Respondents”) to approve General Plan Amendment Application
4 No. P19-04226 and to certify the Final Program Environmental Impact Report (“PEIR”) for that
5 Amendment and for the continuing implementation of the City’s already-adopted General Plan
6 and Development Code. The PEIR includes a climate action plan, the updated “Greenhouse Gas
7 Reduction Plan” (“GHG Plan”), set forth in Appendix G of the PEIR. Respondents’ actions
8 violate the California Environmental Quality Act (“CEQA”), Public Resources Code section
9 21000 et seq., and the CEQA Guidelines, Title 14, California Code of Regulations, section
10 15000 et seq.

11 2. The City intends for the PEIR to serve as the “updated” environmental impact
12 report for the General Plan that it adopted in 2014. That General Plan designates thousands of
13 acres of land in South Fresno for industrial development, including land currently occupied by
14 residences and places of worship and land surrounding schools, parks, and other sensitive
15 receptors in some of the most pollution-burdened neighborhoods in the state. Pursuant to the
16 Development Code’s provisions, warehouse distribution facilities, freight terminals, heavy
17 equipment, metal, plastics and other manufacturing plants, landfills, wastewater treatment plants
18 and dozens of other land uses with adverse environmental and public health impacts are allowed
19 by right under industrial land use designations. The Plan also allows excessive vehicle traffic
20 serving this planned industrial and warehouse development to use residential neighborhood
21 streets and has already resulted in the introduction of thousands of heavy-duty truck and car trips
22 into South Fresno neighborhoods every day. These General Plan and Development Code
23 policies directing industrial development and traffic to South Fresno neighborhoods seriously
24 degrade environmental quality and undermine well-being in South Fresno neighborhoods
25 already facing unmatched air pollution, toxic exposures, and other environmental stressors. The
26 City prepared a Master Environmental Impact Report (“MEIR”) for the General Plan, which it
27 certified in 2014. Despite significant public input relating to the impacts of industrial
28 development on South Fresno neighborhoods, the MEIR failed to adequately analyze the

1 impacts of anticipated industrial facility development under the General Plan on residents and
2 their neighborhoods, and likewise failed to adequately mitigate and to discuss feasible
3 alternatives that would avoid and reduce these impacts.

4 3. CEQA permits public agencies to use Master EIRs and Program EIRs to
5 streamline analysis of future projects' environmental impacts. Realizing that under CEQA the
6 MEIR could only be used for project-level streamlined review for five years after certification,
7 in 2019 the City set about drafting the Program EIR for the already-approved General Plan. The
8 City wanted to have an environmental document to use for project-level streamlining without an
9 expiration date.

10 4. South Fresno Community Alliance, community-based organizations and other
11 members of the public asked repeatedly throughout the PEIR's development for the City to
12 complete a thorough analysis of the significant adverse impacts of General Plan and
13 Development Code policies that permit extensive industrial development in vulnerable South
14 Fresno neighborhoods along with identification of alternatives and mitigation measures to avoid
15 those impacts. Despite the input received by the City however, the PEIR fails as an
16 environmental document. It does not adequately disclose, analyze, or mitigate the cascading
17 impacts of transforming South Fresno neighborhoods into industrial and warehouse zones,
18 including impacts to air quality, to pedestrians, cyclists, and transit riders, to energy use, to
19 water availability for households, and to community displacement and division, among others.
20 The PEIR also includes an incomplete and inconsistent description of the project under review,
21 and improperly segments environmental review of the General Plan. Given these significant
22 deficiencies, the City cannot rely on and use the PEIR for streamlined project-level review.

23 5. Moreover, the GHG Plan fails to meet CEQA's standards to streamline analysis of
24 future projects' greenhouse gas impacts. It relies largely on vague, nonbinding policies from the
25 General Plan to reduce GHG emissions, and fails to establish that compliance with these policies
26 would be sufficient to meet the state's greenhouse gas emission reduction mandates.

1 Code Section 21067, with principal responsibility for conducting environmental review of its
2 actions. The City has a duty to comply with state law, including CEQA.

3 11. Respondent City Council of the City of Fresno is, and at all times herein
4 mentioned was, the duly elected decisionmaking body of Respondent City. As the
5 decisionmaking body, the City Council was charged with compliance with CEQA in connection
6 with its certification of the PEIR and its adequacy as an environmental document.

7 12. South Fresno Community Alliance is unaware of the true names and capacities of
8 Respondents fictitiously named Does 1 through 20 and sues such respondents by fictitious
9 names. South Fresno Community Alliance is informed and believes, and on that basis alleges,
10 that the fictitiously named respondents are also responsible for the actions described in this
11 Petition. When the true identities and capacities of these Respondents have been determined,
12 South Fresno Community Alliance will amend this petition, with leave of the court if necessary,
13 to insert such identities and capacities.

14 **JURISDICTION AND VENUE**

15 13. South Fresno Community Alliance realleges and incorporates by reference the
16 preceding paragraphs in their entirety.

17 14. This Court has jurisdiction over the matters alleged herein pursuant to Code of
18 Civil Procedure Sections 526, 527, 1085, 1087, and 1094.5 and Public Resources Code Sections
19 21168, 21168.5, and 21168.9.

20 15. Venue for this action properly lies in the Superior Court for the State of California
21 in and for the County of Fresno pursuant to Code of Civil Procedure Section 394. Respondents'
22 main offices are located in and the activities authorized by Respondents will occur and are
23 occurring in and around the City of Fresno, which is located in Fresno County.

24 16. Respondents have taken final agency actions with respect to certifying the EIR and
25 granting associated approvals. Respondents have a duty to comply with applicable state laws,
26 including but not limited to CEQA, and South Fresno Community Alliance possesses no
27 effective remedy to challenge the approvals at issue in this action other than by means of this
28 lawsuit.

1 17. On October 28, 2021, South Fresno Community Alliance complied with Public
2 Resources Code Section 21167.5 by serving a written notice on Respondents of South Fresno
3 Community Alliance’s intention to commence this action. Attached hereto as Exhibit A is the
4 true and correct copy of this written notice.

5 18. South Fresno Community Alliance is sending a copy of this Petition and
6 Complaint to the California Attorney General concurrently with filing, thereby complying with
7 the requirements of Public Resources Code Section 21167.7 and Code of Civil Procedure
8 Section 388. Attached hereto as Exhibit B is a true and correct copy of the letter transmitting the
9 Petition and Complaint to the Attorney General.

10 19. Pursuant to Public Resources Code Section 21167.6(b)(2), South Fresno
11 Community Alliance elects to prepare the record of proceedings in this action. Concurrently
12 with this Petition and Complaint, South Fresno Community Alliance is filing a notice of election
13 to prepare the administrative record.

14 20. South Fresno Community Alliance has performed any and all conditions precedent
15 to filing the instant action and has exhausted any and all available administrative remedies to the
16 extent possible and required by law. South Fresno Community Alliance and its members
17 submitted and made numerous objections highlighting the PEIR’s inadequacy as an
18 environmental document and the City’s failure to comply with CEQA.

19 21. South Fresno Community Alliance has no plain, speedy, or adequate remedy in the
20 course of ordinary law unless this Court grants the requested writ of mandate to require
21 Respondents to set aside their certification of the PEIR and associated approvals. In the absence
22 of such remedies, Respondents’ approvals will remain in effect in violation of state law, and the
23 environment, South Fresno Community Alliance, and residents and property owners of the City
24 of Fresno and nearby communities will be irreparably harmed. No money damages or legal
25 remedy could adequately compensate for that harm.

1 **STATEMENT OF FACTS**

2 **The City of Fresno’s Environmental Setting**

3 22. The City of Fresno, extending over 112 square miles with a population of 542,107,
4 is largest the city in the central San Joaquin Valley and the fifth-most populous city in
5 California. Fresno County, in which the City of Fresno is located, is home to nearly one million
6 people.

7 23. The City of Fresno lies within the San Joaquin Valley Air Basin, which suffers
8 from some of the nation’s worst air pollution and from chronic non-attainment of state and
9 federal ambient air quality standards which are designed to protect the health of sensitive
10 populations. The Basin is designated as “nonattainment” by the California Air Resources Board
11 (“ARB”) for the California Ambient Air quality Standards for particulate matter with a diameter
12 of ten micrometers and smaller (“PM₁₀”), particulate matter with a diameter of 2.5 micrometers
13 and smaller (“PM_{2.5}”), and for ozone concentrations averaged over an eight hour period (“Eight
14 Hour Ozone”). ARB has also designated the Basin as severe non-attainment for the state One-
15 Hour Ozone standard. The U.S. Environmental Protection Agency has designated the Basin as
16 non-attainment and extreme non-attainment respectively for the PM_{2.5} and Eight Hour Ozone
17 National Ambient Air Quality Standards. In its 2020 State of the Air Report, the American Lung
18 Association graded the Fresno-Madera-Hanford Metropolitan Area as the city with the worst
19 short-term air pollution (24-hour PM_{2.5}) in the nation. The State of the Air Report also ranked
20 the Fresno Metropolitan area the second worst city for annual particle pollution and the fourth
21 most ozone polluted city. All Fresno residents are impacted by the region’s poor air quality, but
22 studies show that vulnerable populations, including people of color, low-income residents,
23 children, and people with underlying health conditions, face heightened health risks as a result
24 of exposure to air pollution.

25 24. South Fresno neighborhoods in particular are heavily impacted by emissions from
26 existing industrial uses, warehouse distribution centers, landfills, freeway traffic, fueling
27 stations, and the use of local roadways for heavy diesel truck traffic. These neighborhoods rank
28 among the most pollution-burdened in the state according to the California Communities

1 Environmental Health Screening Tool (“CalEnviroScreen”), 3.0., a tool created by the
2 California Environmental Protection Agency to identify communities by census tract which are
3 disproportionately burdened by and vulnerable to multiple sources of pollution. Ten of the
4 twenty highest ranked census tracts in the state, including the most pollution-burdened census
5 tract, are located in South Fresno neighborhoods. Several of these census tracts, and other
6 pollution-burdened census tracts in South Fresno, score among the highest in the state for the
7 CalEnviroScreen indicators for hazardous and solid waste facilities and toxic releases from
8 facilities as well as for population indicators for asthma, low-birth weight, and cardiovascular
9 disease. South Fresno neighborhoods continue to rank among the most pollution-burdened in the
10 state under the California EPA’s recently-published CalEnviroScreen, 4.0.

11 25. Numerous unincorporated communities and residential neighborhoods, which are
12 populated by thousands of people, exist just outside of and/or are encircled by Fresno City
13 limits. These unincorporated communities and residential neighborhoods include at least twenty
14 disadvantaged unincorporated communities (“DUCs”) that have a median household income of
15 less than 80% or less than statewide median household income. These DUCs are identified in
16 the Disadvantaged Unincorporated Communities Analysis which the City adopted as an
17 amendment to its General Plan land use element in 2016. Hundreds of households in DUCs and
18 other unincorporated residential neighborhoods located outside of City limits lack access to City
19 water and sewer service and rely on groundwater supplied by private domestic wells and/or
20 septic tanks to meet their household needs. Many of these residences have experienced adverse
21 impacts as a result of declining groundwater levels since the General Plan’s adoption, including
22 the loss of water supply and/or reductions in water pressure.

23 26. Many South Fresno neighborhoods, DUCs, and other unincorporated residential
24 neighborhoods immediately outside of Fresno City limits lack basic municipal infrastructure to
25 support the safety of pedestrians, bicyclists, and transit users, including but not limited to
26 sidewalks, streetlights, stormwater drainage, bicycle lanes, and crosswalks.

27 27. South Fresno neighborhoods and DUCs also disproportionately lack access to
28 public and private amenities and services compared to other Fresno neighborhoods, including

1 parks and green space, recreational facilities, fresh food, health centers, and retail. At the same
2 time, the City’s industrial, warehouse, and waste management land uses are clustered in South
3 and Central Fresno neighborhoods.

4 **The City’s 2014 General Plan Update and Master Environmental Impact Report**

5 28. In 2014, the City initiated an update to its General Plan and Development Code.
6 With a 2035 planning horizon and a 2056 buildout date, the General Plan is intended to guide
7 growth and development in Fresno for decades to come. But rather than setting out policies and
8 a planning framework to significantly improve air quality and reduce greenhouse gas emissions,
9 it designated thousands of acres of land for industrial development in, surrounding, and even
10 over existing disadvantaged neighborhoods and communities both within and outside of existing
11 city limits in South Fresno and Central Fresno neighborhoods and neighborhoods located along
12 Highway 99 and Golden State Boulevard.

13 29. The General Plan’s most expansive industrial zone is the “South Industrial Priority
14 Area” (“SIPA”), which encompasses approximately 6,150 acres of land in Southwest, South
15 Central, and Southeast Fresno. The SIPA is designated almost exclusively for heavy and light
16 industrial development, with the exception of existing ponding basins and a school. The SIPA
17 includes approximately 2,790 acres of land within City limits, 2,051 acres outside of City limits
18 and within the City’s current sphere of influence, and 1,208 acres of land outside of the sphere
19 of influence which the City identifies as “undeveloped.”

20 30. The City’s Development Code, in turn, allows for the approval of a wide range of
21 high-impact land uses in industrial zone districts, including dozens of these lands uses by right
22 and without further environmental review pursuant to CEQA. For example, by right uses
23 allowed in the Heavy Industrial and Light Industrial zone districts include warehousing,
24 distribution, freight and truck terminals, agricultural processing, and stock yards, as well as
25 “General Industrial” uses, which includes rubber, plastics, metal, heavy equipment and other
26 product manufacturing; major utilities, including electric substations, solid waste collection and
27 transfer stations, wastewater treatment plants, and other public utilities.

1 31. By designating the entire SIPA for industrial development except for certain
2 public facilities such as existing schools and ponding basins, the General Plan proposes to
3 convert all existing agricultural and residential uses, including the entire community of
4 Daleville, a portion of the community of Calwa, and other residential neighborhoods, to
5 industrial use and to surround schools and other sensitive receptors with industrial land uses.
6 The City projected that overall, this policy would result in more than 40 million square feet of
7 new industrial uses.

8 32. The City circulated a Draft Master EIR (“DMEIR”) for the General Plan and
9 Development Code update in July 2014. The DMEIR identified significant impacts from
10 General Plan implementation, including to air quality, public health, climate change, traffic, and
11 noise. Community organizations and members of the public, including Leadership Counsel for
12 Justice and Accountability (“Leadership Counsel”), submitted letters raising alarm about the
13 General Plan’s planned transformation of existing residential areas of the City into industrial
14 zones, the DMEIR’s inadequate analysis of those impacts, and the document’s other
15 deficiencies. Among other points, Leadership Counsel’s letter emphasized that the DMEIR
16 failed to consider changes to land use designations or densities and intensities as potential
17 mitigation, even though such changes could significantly reduce greenhouse gas emissions and
18 other significant impacts disclosed in the DMEIR.

19 33. The City released the Final MEIR on December 5, 2014. Unfortunately, the City
20 did not take seriously the comments submitted by Leadership Counsel and other members of the
21 public. Rather than revise the MEIR to comply with CEQA—or modify the General Plan to
22 protect residents from the environmental impacts of industrial development—the City’s Final
23 MEIR brushed aside community concerns.

24 34. On December 18, 2014, the City adopted the General Plan and certified the MEIR.
25 Since the General Plan’s adoption, implementation of the General Plan’s industrial vision for
26 South Fresno has resulted in severe impacts on environmental quality, public health, and well-
27 being in Fresno’s most vulnerable neighborhoods. Multiple warehouse distribution facilities
28 have been developed and permitted without adequate environmental review or mitigation on

1 previously vacant land or land occupied by agricultural or residential uses, and in close
2 proximity to residential neighborhoods and schools. The construction and operation of these
3 projects have significantly degraded the quality of life for residents in the area.

4 35. During construction of the Amazon and Ulta Beauty distribution facilities in South
5 Central Fresno in 2017 on parcels the General Plan designated for Heavy Industrial
6 development, residents of nearby properties faced ongoing accumulation of heavy layers of dust
7 on and around their homes and automobiles. Residents were forced to keep their windows shut
8 to reduce the infiltration of dust, but even then observed layers of dust accumulate inside their
9 homes. Their exposure to dust resulted in significant public health impacts by triggering
10 allergies, asthma, and breathing difficulties. Now, the warehouses' operations generate
11 thousands of heavy truck and car trips on local roadways shared with homes each day. This
12 truck and car traffic exposes residents who live along and near those roadways to diesel and
13 PM_{2.5} pollution and dust from unpaved road shoulders and creates additional congestion, noise
14 and vibration which residents hear and feel in their homes, and stress and anxiety for residents.
15 The excessive vehicle traffic generated by the warehouses on local roads also creates an unsafe
16 environment for pedestrians, bicyclists, and public transit users which is exacerbated by the lack
17 of sidewalks, stormwater drainage, crosswalks, bicycle lanes, and other active transportation
18 safety infrastructure. In addition, as a result of warehouse operations, residents experience glare
19 from exterior lighting throughout the night and increased ambient temperatures emanating from
20 concrete distribution centers, among other impacts to environmental quality, public health, and
21 quality of life.

22 **Program EIR for the General Plan and General Plan Amendment, and GHG Plan**

23 36. In 2018, the City initiated a process of drafting a Program EIR, (the "PEIR") for
24 its already-adopted 2014 General Plan, as well as for a proposed text amendment to the General
25 Plan (General Plan Amendment Application No. P19-04226) to address state legislation
26 requiring vehicle miles travelled ("VMT") to replace level of service as the transportation metric
27 under CEQA.
28

1 37. The City circulated the Draft PEIR in March 2020. It described the PEIR as an
2 EIR analyzing the General Plan VMT text amendment and as an “update” of the MEIR to
3 include a 2019 baseline for “the continued implementation of the approved General Plan” and to
4 reflect changes in City planning documents since the General Plan adoption in 2014. The City
5 noted that it was “converting” the MEIR to a PEIR. It had recognized that the MEIR could only
6 be used for five years—approximately through the end of 2019—as an environmental document
7 that proposed development projects could tier from for environmental review. The City did not
8 propose any changes to General Plan land use designations in conjunction with the PEIR, but
9 the PEIR did include an update to the City’s GHG Plan, appearing as Appendix G to the Draft
10 PEIR. The City asserted that the GHG Plan was a “Qualified Plan” that could be used for
11 streamlined project-level review of greenhouse gas impacts, under CEQA Guidelines Section
12 15183.5.

13 38. Leadership Counsel commented on the Draft PEIR and proposed associated
14 approvals by letter dated May 5, 2020, outlining the flaws in the document’s project description
15 and environmental analysis, and its failure to propose feasible and effective mitigation measures
16 to minimize the project’s potentially significant environmental impacts related to aesthetics, air
17 quality, water supply, land use, traffic, displacement of people and housing, and public health,
18 among others. The San Joaquin Valley Air Pollution Control District and Fresno Irrigation
19 District also commented on the Draft PEIR, raising concerns respectively with the General
20 Plan’s impacts on air quality in South Fresno neighborhoods impacted by industrial
21 development and on groundwater water supply, and recommending that the PEIR incorporate
22 analysis and mitigation measures to avoid those impacts. Other agencies, organizations, and
23 individuals commented on the Draft PEIR as well.

24 39. In July 2020, the City released a Response to Comments and a Final PEIR. That
25 document was dismissive of the concerns expressed and made no substantive revisions to the
26 EIR. Leadership Counsel provided a lengthy, detailed comment letter on the Final PEIR,
27 documenting the EIR’s failure as an environmental document, and also highlighting how the
28 GHG Plan failed to meet CEQA’s standards for streamlining.

1 40. In March 2021, the City released a Recirculated Draft PEIR for public review. The
2 document made only minor revisions to three sections of the DPEIR—Air Quality, Greenhouse
3 Gas Emissions, and Transportation—and to the GHG Plan. These revisions failed to correct the
4 Draft PEIR’s deficiencies, including its illegal, truncated project description, its inadequate
5 analysis of the General Plan’s significant impacts, and its failure to identify enforceable
6 mitigation measures or a reasonable range of alternatives.

7 41. On May 10, 2021, South Fresno Community Alliance, Friends of Calwa, and
8 Fresno Building Healthy Communities submitted a letter commenting on the Recirculated Draft
9 PEIR and the Draft PEIR. Their comments emphasized the PEIR’s:

10 a. Inaccurate project description and failure to study and mitigate impacts
11 resulting from industrial development that has occurred between the General Plan’s 2014
12 adoption and the issuance of the PEIR’s Notice of Preparation in 2019;

13 b. Failure to analyze the General Plan’s impacts on pedestrian and bicyclist
14 safety, despite its planned introduction of large volumes of traffic into neighborhoods designated
15 for industrial uses;

16 c. Failure to analyze air emissions associated with industrial facilities and the
17 public health impacts of those emissions on vulnerable neighborhoods;

18 d. Failure to comply with CEQA Guidelines Section 15185.3’s requirements
19 for climate action plans;

20 e. Failure to conduct a complete analysis of the General Plan’s energy
21 impacts, including the energy impacts of expansive warehouse and industrial development
22 planned for South Fresno neighborhoods;

23 f. Lack of analysis and mitigation of land use impacts resulting from the
24 General Plan’s planned conversion of entire unincorporated communities to industrial land uses;

25 g. Lack of analysis and mitigation of water supply impacts on households
26 reliant on domestic wells as a result buildout under the General Plan;

27 h. Lack of analysis of project alternatives that will reduce the General Plan’s
28 impacts, including impacts associated with industrial development on neighborhoods.

1 47. CEQA is designed to ensure that government agencies incorporate the goal of
2 long-term protection of the environment into their decisions that may affect the environment.
3 CEQA applies to any discretionary action taken by an agency that may cause a reasonably
4 foreseeable change in the environment.

5 48. In furtherance of its goal of environmental protection, CEQA requires that an
6 agency prepare an EIR for a project whenever substantial evidence in the record supports a fair
7 argument that the project may have a significant impact on the environment. As the cornerstone
8 of the CEQA process, the EIR must disclose and analyze a project's potentially significant
9 environmental impacts. In addition, the EIR also must inform decision-makers and the public of
10 feasible mitigation measures and alternative project designs or elements that would lessen or
11 avoid the project's significant adverse environmental impacts.

12 49. CEQA also mandates that the lead agency adopt all feasible mitigation measures
13 that would reduce or avoid any of the project's significant environmental impacts. If any of the
14 project's significant impacts cannot be mitigated to a less-than-significant level, the project can
15 be approved only if the agency finds that the project's benefits would outweigh its unavoidable
16 impacts.

17 50. Under CEQA, all findings required for any agency's approval of a project must be
18 legally adequate and supported by substantial evidence in the administrative record, and CEQA
19 further requires that an agency provide an explanation of how the evidence in the record
20 supports the conclusions that the agency has reached.

21 51. Respondents failed to proceed in the manner required by law and violated CEQA
22 by certifying an EIR that is inadequate and fails to comply with the requirements of CEQA and
23 the CEQA Guidelines. Among other things, the PEIR:

24 a. Uses an inaccurate, incomplete, conflicted and inconsistent project
25 description that creates uncertainty about the nature of the action that the PEIR intends to and
26 does analyze. For example, in describing the project as including the "continued implementation
27 of the approved General Plan," and picking and choosing which impacts of General Plan
28 implementation to review, the PEIR fails to describe the whole of the action. Its flawed

1 description also improperly segments environmental review of the General Plan and fails to
2 respect its obligation to ensure the impacts of the project as a whole are addressed.

3 b. Fails to consider an adequate range of feasible alternatives. Apart from the
4 “No Project Alternative”, the PEIR offers only one other alternative, the “Net Zero Energy
5 Consumption Alternative” for commercial buildings, which does not attempt to reduce any of
6 the significant and unavoidable impacts identified in the PEIR. At the same time, the PEIR
7 ignores alternatives that would avoid or substantially reduce significant impacts, such as a low
8 development alternative reducing the impacts from the General Plan’s heavy industrial land use
9 designations. Leadership Counsel requested the City consider this alternative its May 2020
10 comments and in subsequent letters.

11 c. By using a 2019 baseline, includes five years of development under the
12 General Plan as part of the baseline, even though that development is part of the General Plan
13 implementation, the impacts of which the PEIR purports to review.

14 d. Fails to adequately disclose, analyze, or mitigate the Plan’s significant
15 impacts on the environment, including but not limited to the Plan’s direct, indirect, and
16 cumulative impacts on: air quality and sensitive populations; public health; climate change;
17 cyclists, pedestrians, and transit riders; energy use; noise and ground borne vibration; land use;
18 aesthetics; population and housing; and groundwater. For example:

19 i. The PEIR fails to analyze how industrial development under the
20 General Plan would affect programs, plans, ordinances, and policies prioritizing bicycles,
21 pedestrians and transit. Yet implementation of the General Plan would result in a substantial
22 increase in VMT and heavy truck traffic, creating unsafe environments for pedestrians,
23 including around residences, and increasing bus delay and thus be directly at odds with these
24 important policies and objectives. The PEIR likewise fails to analyze impacts to pedestrians,
25 cyclists, and transit riders themselves, who are all made vulnerable by the tens of thousands of
26 daily vehicle trips associated with warehouse and industrial development under the General
27 Plan.

1 ii. The PEIR fails to adequately analyze and disclose inconsistencies
2 between planned industrial development in the South Industrial Priority Area and South Central
3 Fresno’s AB 617 Community Emissions Reduction Plan, which requires reduction of
4 cumulative air pollution in South Fresno, and fails to adequately analyze and mitigate the public
5 health impacts of air pollution from industrial development in South Fresno.

6 iii. The PEIR fails to analyze the impacts of proliferation of industrial
7 facilities in South Fresno on land use, population and housing, because it fails to acknowledge
8 the application of industrial land use designations to existing communities and industrial
9 facilities’ potential to displace substantial numbers of people.

10 iv. The PEIR fails to adequately analyze groundwater depletion as a
11 result of General Plan implementation and its impacts on households in unincorporated Fresno
12 County which rely on shallow wells, and fails to adopt feasible mitigation measures to avoid and
13 reduce those impacts.

14 v. The PEIR fails to adequately or accurately analyze and mitigate air
15 quality, noise, public health and other impacts associated with construction that occurs as a
16 result of buildout, including of industrial facilities, under the General Plan. For example, the
17 PEIR relies on the San Joaquin Valley Air District’s Fugitive Dust Rule (Regulation VIII) as the
18 basis for its conclusion that fugitive dust emissions associated with construction will be less than
19 significant, despite the fact that the Air District’s guidance advises that compliance with the
20 regulation may not be sufficient to reduce dust impacts to less than significant levels. In
21 addition, the PEIR erroneously dismisses and fails to mitigate the General Plan’s potentially
22 significant impacts from construction noise on the basis that construction activity is exempt
23 from local noise controls when conducted between certain hours.

24 vi. Many of the PEIR’s mitigation measures are vague, optional, or
25 otherwise unenforceable. In addition, many measures state in the first sentence that they apply
26 only to “discretionary” permitting decisions; i.e., they do not apply to ministerial ones. This
27 improperly limits the scope of necessary mitigation, especially in light of the City’s as-of-right
28

1 zoning for many land uses in industrial areas in South Central Fresno, even for major stationary
2 and mobile sources of conventional and toxic pollutants.

3 52. Respondents violated CEQA Guidelines section 15088(c) by failing to adequately
4 respond to comments on the EIR, including, but not limited to, ignoring or rotely dismissing
5 identification of flaws in the City’s analysis, requests for additional information, and
6 suggestions of feasible mitigation measures and alternatives.

7 53. Respondents violated CEQA by adopting inadequate findings. The City’s findings
8 do not provide adequate reasoning or the analytic route from facts to conclusions, as required by
9 law. The findings and statement of overriding consideration are unsupported by substantial
10 evidence in the record.

11 54. As a result of the foregoing defects, Respondents prejudicially abused their
12 discretion by certifying an EIR that does not comply with the requirements of CEQA and
13 precluded informed decision-making. As such, Respondents’ certification of the PEIR and
14 associated approvals must be set aside.

15 **SECOND CAUSE OF ACTION**

16 **Declaratory Relief – Tiering from the PEIR**

17 **(Code of Civil Procedure § 1060)**

18 55. South Fresno Community Alliance hereby realleges and incorporates by reference
19 the preceding paragraphs in their entirety.

20 56. CEQA, at Public Resources Code Sections 21093 and 21094 and CEQA
21 Guidelines Sections 15152 and 15168, allows Program EIRs, including Program EIRs for
22 general plans, to be used for “tiered” or streamlined environmental review for future projects.

23 57. An actual controversy has arisen and now exists relating to the rights and duties of
24 the parties herein. South Fresno Community Alliance contends that because of the PEIR’s fatal
25 defects as an environmental document, it does not satisfy the requirements of CEQA and that
26 Respondents cannot rely on the PEIR to streamline the City’s evaluation of future projects’
27 environmental impacts. In contrast, Respondents contend that the City may rely on the PEIR to
28 streamline its analysis of future projects’ environmental impacts.

1 58. There is an ongoing controversy between the parties regarding the legal effect of
2 the PEIR. South Fresno Community Alliance therefore seeks declarations that the PEIR is
3 deficient as an environmental document under CEQA, and that Respondents may not use the
4 PEIR to streamline the City’s analysis of future projects’ environmental impacts.

5 **THIRD CAUSE OF ACTION**

6 **Declaratory Relief – Tiering from the GHG Plan**

7 **(Code of Civil Procedure § 1060)**

8 59. South Fresno Community Alliance hereby realleges and incorporates by reference
9 the preceding paragraphs in their entirety.

10 60. CEQA Guidelines Section 15183.5(b) establishes standards that a climate action
11 plan must satisfy before an agency may use that plan to streamline its analysis of a project’s
12 potential greenhouse gas impacts. To be eligible for streamlining, a climate action plan must:

- 13 a. Quantify greenhouse gas emissions, both existing and projected over a
14 specified time period, resulting from activities within a defined geographic area;
- 15 b. Establish a level, based on substantial evidence, below which the
16 contribution to greenhouse gas emissions from activities covered by the plan would not be
17 cumulatively considerable;
- 18 c. Identify and analyze the greenhouse gas emissions resulting from specific
19 actions or categories of actions anticipated within the geographic area;
- 20 d. Specify measures or a group of measures, including performance standards,
21 that substantial evidence demonstrates, if implemented on a project-by-project basis, would
22 collectively achieve the specified emissions level;
- 23 e. Establish a mechanism to monitor the plan’s progress toward achieving the
24 level and to require amendment if the plan is not achieving specified levels;
- 25 f. Be adopted in a public process following environmental review.

26 61. Respondents’ GHG Plan, included in Appendix G of the PEIR, fails to satisfy
27 these requirements. Among other flaws, the GHG Plan: includes a baseline inventory of
28 emissions that is incomplete and inaccurate; relies largely on vague, nonbinding policies from

1 the General Plan to reduce GHG emissions and fails to provide data to support its conclusion
2 that compliance with these policies would be sufficient to meet the state’s greenhouse gas
3 emission reduction mandates. Further, the GHG Plan applies such a vague approval process for
4 a project to use the GHG Plan for streamlining purposes that it provides no assurance that such
5 projects will reliably reduce GHG emissions through project design.

6 62. An actual controversy has arisen and now exists relating to the rights and duties of
7 the parties herein. South Fresno Community Alliance contends that the GHG Plan does not
8 satisfy the requirements of the CEQA Guidelines Section 15183.5(b) and that Respondents
9 cannot rely on the GHG Plan to streamline its evaluation of future projects’ greenhouse gas
10 impacts. In contrast, Respondents contend that the GHG Plan satisfies CEQA’s requirements
11 and that the City may rely on the GHG Plan to streamline its analysis of future projects’
12 greenhouse gas impacts.

13 63. There is an ongoing controversy between the parties regarding the legal effect of
14 the GHG Plan. South Fresno Community Alliance therefore seeks declarations that the GHG
15 Plan does not fully comply with the standards set forth in the CEQA Guidelines, including
16 Guidelines section 15183.5(b), and that Respondents may not use the GHG Plan to streamline
17 the City’s analysis of future projects’ greenhouse gas impacts.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, South Fresno Community Alliance prays for judgment as follows:

20 1. For alternative and peremptory writs of mandate directing Respondents to vacate
21 and set aside their certification of the PEIR and associated approvals;

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

25 3. For a temporary stay, temporary restraining order, and preliminary and permanent
26 injunctions restraining Respondents and their representative agents, servants, and employees,
27 and all others acting in concert with Respondents on their behalf, from taking any action to rely
28

1 on the PEIR, including the GHG Plan, for the environmental analysis of subsequent projects,
2 pending full compliance with the requirements of CEQA, the CEQA Guidelines, and State law;

3 4. For declarations that the PEIR is inadequate as an environmental document under
4 CEQA and that Respondents may not rely on the PEIR to streamline analysis of future projects’
5 environmental impacts;

6 5. For declarations that the GHG Plan does not satisfy CEQA’s streamlining
7 requirements, and that Respondents may not rely on the GHG Plan to streamline analysis of
8 future projects’ greenhouse gas emissions;

9 6. For costs of the suit;

10 7. For an order awarding South Fresno Community Alliance its attorneys’ fees under
11 Code of Civil Procedure section 1021.5 and other applicable authority; and

12 8. For such other and further relief as the Court deems just and proper.

13 DATED: October 29, 2021

14
15 By: 

16 Ellison Folk
17 Marlene Dehlinger
18 SHUTE, MIHALY & WEINBERGER LLP

19 Ashley Werner
20 Phoebe S. Seaton
21 LEADERSHIP COUNSEL FOR JUSTICE AND
22 ACCOUNTABILITY

23 Lucas Williams
24 ENVIRONMENTAL LAW AND JUSTICE
25 CLINIC, GOLDEN GATE UNIVERSITY
26 SCHOOL OF LAW

27 Attorneys for Petitioner and Plaintiff
28 SOUTH FRESNO COMMUNITY ALLIANCE

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VERIFICATION

I, Panfilo Cerrillo, am a member of South Fresno Community Alliance, Petitioner and Plaintiff in this action, and I am authorized to execute this verification on Petitioner and Plaintiff's behalf. I have read the foregoing Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief ("Petition"). I am familiar with its contents. All facts alleged in the above Petition not otherwise supported by exhibits or other documents are true of my own knowledge, except as to matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed at Fresno, California on October 29, 2021.



Signature

Exhibit A

SHUTE MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

ELLISON FOLK
Attorney
Folk@smwlaw.com

October 28, 2021

Via E-Mail and U.S. Mail

Briana Parra
Interim City Clerk
2600 Fresno Street
Room 2133
Fresno, CA 93721
clerk@fresno.gov

Re: Notice of Commencement of CEQA Litigation Challenging Certification of Program Environmental Impact Report for City's General Plan and Associated Approvals

Dear Ms. Parra:

This letter is to notify you that South Fresno Community Alliance will file suit against the City of Fresno ("City") and City Council of Fresno for failure to observe the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 et seq., the CEQA Guidelines, California Code of Regulations section 15000 et seq., and state law in certifying the Final Program Environmental Impact Report ("PEIR") for the City's General Plan and in making associated approvals. This notice is given pursuant to Public Resources Code section 21167.5.

Please note that, pursuant to Public Resources Code section 21167.6, the record of proceedings for the City's actions includes, among other items, all "internal agency communications, including staff notes and memoranda related to the project or to compliance with [CEQA]." Because all e-mails and other internal communications related to the PEIR and associated approvals are part of the administrative record for the lawsuit to be filed by the South Fresno Community Alliance, the City may not destroy or delete such documents prior to preparation of the record in this case.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Ellison Folk

PROOF OF SERVICE

South Fresno Community Alliance v. City of Fresno, et al
Fresno County Superior Court

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 396 Hayes Street, San Francisco, CA 94102.

On October 28, 2021, I served a true copy of the following document described as:

NOTICE OF CEQA LITIGATION

on the parties in this action as follows:

Briana Parra
Interim City Clerk
2600 Fresno Street
Room 2133
Fresno, CA 93721
E-Mail: clerk@fresno.gov

BY MAIL: I caused said document to be enclosed in a sealed envelope or package addressed to the person at the address listed in the Service List and caused the envelope to be placed for collection and mailing, following our ordinary business practices. I am readily familiar with Shute, Mihaly & Weinberger LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address tsanchez@smwlaw.com to the person at the e-mail address listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 28, 2021, at San Francisco, California.



Tuloa Sanchez

Exhibit B

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

ELLISON FOLK
Attorney
Folk@smwlaw.com

October 29, 2021

Via U.S. Mail

Attorney General Rob Bonta
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814


Re: Notice of Filing CEQA Litigation: *South Fresno Community Alliance
v. City of Fresno, et al.*

Dear Attorney General Bonta:

Enclosed please find a copy of the Verified Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief in the above-titled action. The petition is provided to you in compliance with Public Resources Code section 21167.7 and Code of Civil Procedure section 388. Please acknowledge receipt in the enclosed prepaid, self-addressed envelope. Thank you.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Ellison Folk

Encl.: Verified Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief

Exhibit C

**DECLARATION OF KATIE TAYLOR IN SUPPORT OF
SOUTH FRESNO COMMUNITY ALLIANCE'S COMMENTS ON THE CITY OF
FRESNO'S GENERAL PLAN FINAL PROGRAMMATIC
ENVIRONMENTAL IMPACT REPORT (SCH #2109050005)**

I, Ms. Katie Taylor, declare:

1. I am a resident of Fresno, California. For over fifty years, I have lived on Central Avenue near its intersection with Orange Avenue in unincorporated Fresno County, just South of Fresno City limits.

2. The Amazon Fulfillment Center was constructed across the street from my house in 2017. The Ulta Beauty distribution center was built less than half a mile from my house in 2017 as well. There are other large facilities near my house, including the FedEx terminal, that attract traffic. Several other truck terminals and truck stops have been built around my neighborhood in the last few years as well. It seems like there are always new facilities being built nearby.

3. I was never notified that large warehouses were going to be built so close to me. When I saw the orchard trees being plowed down across the street, I did not know why. I thought the property owners were just going to plant more fruit trees. My neighbors thought the same thing. The next thing we knew there were big buildings being constructed. We were not given an opportunity to provide input on whether these projects went forward, the types of impacts they might have on the community, and what types of mitigation to avoid and reduce the projects' impacts might be appropriate. We were not given the opportunity for our voices to be heard.

4. I am not aware of the City ever contacting me or my family to inform us of the City's development of its current General Plan ("2014 General Plan"), the 2014 General Plan Master Environmental Impact Report, the Programmatic Environmental Impact Report for the 2014 General Plan, the Roosevelt Community Plan, or other action to zone or pre-zone land in my neighborhood for industrial land uses.

5. Three of my family members have passed away from cancer. My husband, daughter, and son all died of cancer. Some of my neighbors have died of cancer too. I have a heart condition and thyroid problems. I have allergies as well. My allergies have gotten worse since the warehouses were built. Some of my neighbors' children have asthma, which they say has gotten worse.

6. The construction of the Amazon facility had major impacts on me and my neighborhood. While construction was ongoing for months, the Amazon construction covered my house with dust. The construction occurred at night as well. The nighttime construction was loud and they used very bright lights. The truck traffic during the construction was also extremely loud,

and I could hear the noise from within my home with the windows shut. The construction caused vibrations that were so strong that my house shook on some occasions.

7. Since the Amazon and Ulta facilities began operating, the car and truck traffic in my neighborhood has increased significantly. People who come visit my house are shocked by how much traffic there is now. There is traffic traveling to the facilities 24 hours a day, seven days a week. A loud rumbling from the trucks passing can be heard all hours of the day and night. The vibration from the trucks shakes my house. The trucks are so loud sometimes that it sounds like someone is knocking at my door, and it can sometimes be hard to hear visitors talking in my house when trucks pass by.

8. The trucks going to and from the facilities create a lot of dust and fumes, which covers my house and car constantly. I have to clean the dust off the windows of my house and car almost every day. The dust also seeps into my house through cracks in my doors and windows. My neighbors complain about the dust getting inside their houses too.

9. Traffic lights were put up at the intersection of Central and Orange when the Amazon warehouse was constructed. The lights are very bright and blink continuously. They shine into my windows, which disrupts my sleep. My daughter has Down syndrome and autism. The constant flashing of the traffic lights is very disturbing for her because of her condition.

10. I have noticed that my neighborhood has become hotter since the warehouses were constructed, including during the night. I am forced to use my air conditioning more, which increases my energy bill. My neighbors have also noticed that it is hotter, that the neighborhood does not seem to cool down as much in the evening as it used to, and that they have to use their air conditioners more.

11. I have noticed that the traffic from the warehouses affects pedestrians. People I know that walk around the neighborhood have to be very careful because of the traffic. Some of the Amazon employees drive recklessly. I have noticed more accidents because of the traffic from the warehouses. There is frequently congestion from employee vehicles backed onto Orange Avenue near my house.

12. The water pressure at my house has dropped in the last four or five years. I have to pay for a water tank that comes every two weeks. My water is contaminated. One of my family members tested the water and found that it was not safe to drink. A person from UC Davis came and tested my water too and told me not to drink it because of the contamination.

13. I am worried that the value of my house has gone down because of the warehouses and other facilities. I believe that the value of my neighbors' houses has gone down too. This really hurts us because we do not have very much money, my home is my main source of wealth, and we are trying to pass our homes down to our kids to help support them economically.

14. Since about 2017, my neighbors and I have made many efforts to seek that the City stop approving new warehouses and industrial facilities in my neighborhood, that they notify us before studying and approving any new projects and allow us an opportunity to provide input, and that industrial developers and land owners respect these requests. When I and my neighbors have talked to the City and the developers, we tell them about the noise, dust, traffic, health problems, lowered property values, and other impacts from the warehouses and other projects. But they ignore us and keep building projects here without even notifying us first. It feels like we are not being heard. It feels like they are bullying us—like we are being targeted because of our race and because we do not have a lot of money.

15. The traffic, noise, dust, health, and other impacts from the facilities have caused me to suffer from a significant amount of stress and anxiety. For example, the abrupt loud noises and flashing lights are very unnerving and stressful. The heavy traffic from cars and trucks makes me constantly worry about my family's safety. My daughter has also said that she worries about the traffic, noise, and other impacts from the facilities.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on September 13, 2021, in Fresno, California.



Ms. Katie Taylor

Exhibit D

**DECLARATION OF TERRY M. HIRSCHFIELD IN SUPPORT OF
SOUTH FRESNO COMMUNITY ALLIANCE'S COMMENTS ON THE CITY OF
FRESNO'S GENERAL PLAN FINAL PROGRAMMATIC
ENVIRONMENTAL IMPACT REPORT (SCH #2109050005)**

I, Terry M. Hirschfield, declare:

1. I am the superintendent of the Orange Center School District, which is a single-school district comprised of the Orange Center Elementary School (the "School"). I am also the principal of the School. I have been the School's superintendent and principal since July 2015.

2. The School is located in unincorporated Fresno County at 3530 S. Cherry Avenue between E. Central Avenue and E. North Avenue. The District serves approximately 300 students, ranging from TK-8th grade. The School also provides preschool opportunities through a state-funded preschool.

3. Orange Center's student population is composed of 76% students who identify as being of Hispanic descent and 18% who identify as students of Hmong descent. One hundred percent of Orange Center students are eligible to receive meals through the federal free and reduced lunch program. Approximately 40 percent of all students who attend Orange Center have been identified as being English Language Learners. Over 25% of the families that are served by Orange Center speak a primary language other than English in the home.

4. In 2017, the Ulta Beauty distribution center was constructed near the School on E. Central Avenue between S. Cherry Avenue and S. East Avenue. Shortly before the Ulta facility was built, the Amazon Fulfillment Center was constructed near the School on E. Central Avenue and S. Orange Avenue. I was not notified by the City or County of Fresno that these large warehouses would be located near the School. I was not consulted about how these two major facilities would impact my staff and students before the projects were constructed.

5. The construction of the Ulta facility created significant amounts of noise from the construction equipment and activities. The construction caused other disruptions as well. For example, when the developer was installing an A/C unit at the facility, a helicopter flew at a low altitude over the schoolyard. The helicopter forced me and my staff to send the students inside because we did not know whether it was safe for them to be outside. No one notified us that the developer was planning to fly a helicopter over the School in such a disruptive manner.

6. After the Ulta construction started, there was an increase in the amount of gophers, ground squirrels, rabbits, and other wildlife entering the schoolyard and digging holes on the students play area. The holes in our playing fields made the field unusable for sports games and caused an increase in the number of holes in the field making it a potential safety hazard. To

protect the students, the School has been forced to pay a wildlife management company to come to the School monthly to reduce the wildlife on the school grounds.

7. Since the Ulta and Amazon facilities began operating, there has been a significant increase in truck traffic on E. Central Avenue, S. Cherry Avenue, and other streets in the vicinity of the School. In addition to the increased truck traffic, there has been a significant increase in traffic from employees traveling to and from the 99 and 41 highways to the Ulta and Amazon facilities. The employee traffic causes additional congestion, noise, and hazards on the streets near the School.

8. Due to the high amount of traffic and the condition of the roads and lack of sidewalks, the school encourages all students to ride the bus or to be dropped off or picked up.

9. I am also concerned for the safety of people driving in the neighborhood and surrounding area due to the increased car and truck traffic. Recent automobile accidents in our outlying community have made me more concerned. I am concerned that these accidents are a symptom of the problem that the County roads are not designed for the high volume of truck traffic caused by the industrial developments. I do not believe that it is safe or appropriate to have so many trucks on the two-lane country roads in this neighborhood. I am frustrated that the City is allowing new or modified applications for industrial developments without doing an environmental impact report which properly studies the increased traffic and other significant impacts on this community.

10. I am not aware of the City ever contacting the School about the City's development of its current General Plan ("2014 General Plan"), the 2014 General Plan Master Environmental Impact Report, the Programmatic Environmental Impact Report for the 2014 General Plan, the Roosevelt Community Plan, or other action to zone or pre-zone land near the School for industrial land uses.

11. After the Ulta and Amazon facilities were already operating, the former Mayor asked for the School's input on industrial development in the area. I relayed our concerns about the lack of notice and significant impacts from the developments. I attended numerous meetings with the former Mayor where I provided input. I was also part of the South Central Specific Plan advisory committee. The committee submitted a list of the impacts from developments about which residents were most concerned as well as recommended mitigation measures. The City was supposed to take these recommendations to the Mayor and his staff, so that the City could use this information to drive the decision-making for the future of the South Central Specific Plan area. Since then, I am not aware of the City taking any action on our recommendations, and the City has not communicated with me further about this matter.


12. I am concerned that the City's Programmatic Environmental Impact Report for the 2014 General Plan ("GP PEIR") is ignoring significant impacts caused by recent industrial developments near the School. The GP PEIR proposes to use a 2019 baseline to analyze impacts.

But the City knows very well that there has been extensive industrial development in this area, including the Amazon and Ulta warehouse projects, since 2015. I believe that the City's GP PEIR must account for the baseline of the community before these facilities were constructed to understand the extent of the impacts the projects have had on residents. I believe this will help ensure that the City and the public are adequately informed when deciding whether to approve even more industrial development in this community.

13. I am concerned that the County representatives have not provided any input on the City of Fresno's approval of projects in this area. The City of Fresno does not represent the County, where the School is located. I have been to many City Council meetings, planning commission meetings, and other public meetings. Although County representatives attended the initial meetings that were done when the City wanted to rezone the area surrounding the School, I have not seen or heard from County representatives when dealing with the more recent projects. I am concerned that the City Council is making decisions that significantly impact people in Fresno County who did not elect them.

14. The City has not given the School adequate notice about its plans to approve major industrial developments or amendments to project requests near the School, even though I have repeatedly requested notice. I believe that the City has not done a proper environmental impact report for the General Plan. Nevertheless, I am informed and believe that the City continues to allow new or amended projects in this community.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on September 14, 2021, in the County of Fresno, California.


Terry M. Hirschfield