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20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
21 **COUNTY OF RIVERSIDE**

22 CENTER FOR BIOLOGICAL DIVERSITY,  
23 SIERRA CLUB, MOUNTAIN LION  
24 FOUNDATION, and THE COUGAR  
25 CONNECTION,

26 Petitioners,

27 v.

28 CITY OF TEMECULA, CITY COUNCIL OF  
CITY OF TEMECULA; and DOES 1 through  
20, inclusive,

Respondents.

AMBIENT COMMUNITIES, LLC;  
TEMECULA WEST VILLAGE, LLC; and  
DOES 21 through 40, inclusive,

Real Parties in Interest.

Case No.

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

[Pub. Res. Code § 21000, et seq. (California  
Environmental Quality Act); Code Civ. Proc. §  
1094.5 (§ 1085); Gov. Code § 65300, et seq.  
(California Planning and Zoning Law)]

1 **INTRODUCTION**

2 1. This action challenges the decision of the City of Temecula and its City Council  
3 (“Respondents”) to approve the Environmental Impact Report (“EIR”) and associated project approvals  
4 for the Altair Specific Plan (the “Project”). The Project proposes a development of up to 1,750 dwelling  
5 units, 5.1 million square feet of commercial land uses, a highway by-pass, and a “civic” use on the  
6 southern portion of the Project area.

7 2. Petitioners CENTER FOR BIOLOGICAL DIVERSITY, SIERRA CLUB, MOUNTAIN  
8 LION FOUNDATION, and THE COUGAR CONNECTION (collectively, “Petitioners”) demonstrated  
9 throughout the administrative process that the Project will endanger the mountain lion population  
10 residing in the Santa Ana Mountains, which are known as the Santa Ana mountain lions. The Santa Ana  
11 mountain lions already suffer from the lowest genetic diversity of any population in California because  
12 freeways and sprawl development have made it difficult for individual lions to migrate between the  
13 Santa Ana Mountains and the inland Peninsular Ranges.

14 3. The Project would interfere with the migration of mountain lions by degrading key  
15 wildlife corridors that are essential to the continued survival of the Santa Ana mountain lions. Petitioners  
16 along with the U.S. Fish and Wildlife Service (“USFWS”), the California Department of Fish and  
17 Wildlife (“CDFW”) (collectively, the “Wildlife Agencies”) and mountain lion experts such as Dr.  
18 Winston Vickers repeatedly informed the City of the severe and permanent impacts of the Project on the  
19 Santa Ana mountain lions. Nonetheless, the City failed to disclose or adequately evaluate these  
20 environmental impacts in the EIR or identify effective mitigation measures, rendering the EIR  
21 inadequate under the California Environmental Quality Act (“CEQA”), Public Resources Code sections  
22 21000 *et seq.*

23 4. The Project also is inconsistent with the Western Riverside County Multiple Species  
24 Habitat Conservation Plan (“MSHCP”). The EIR contains misleading and inaccurate MSHCP  
25 consistency analyses, despite letters from the Wildlife Agencies and Petitioners informing the City of  
26 the numerous errors in the analyses. The Project is further inconsistent with the MSHCP because the  
27 City and the developer failed to comply with the Criteria Refinement process even though the Project  
28

1 departs from the conservation goals set forth in the MSHCP. The Project’s inconsistency with the  
2 MSHCP amounts to a significant impact under CEQA which was not mitigated by the City. Because the  
3 City’s General Plan incorporates the MSHCP, the City’s approval of the Project is inconsistent with the  
4 City’s General Plan and therefore violates California’s Planning and Zoning Law.

5 5. In addition to impacts on the Santa Ana mountain lions, the Project will have significant  
6 impacts on biological resources, special status species, air quality, greenhouse gases (“GHGs”), water  
7 supplies, water quality, aesthetics, and traffic, among other impacts. The EIR does not disclose or  
8 adequately evaluate these environmental impacts, nor does it identify effective mitigation measures to  
9 alleviate these impacts.

10 **THE PARTIES**

11 6. Petitioner CENTER FOR BIOLOGICAL DIVERSITY (the “Center”) is a non-profit  
12 conservation organization dedicated to the protection of native species and their habitats through  
13 science, policy, and environmental law. The Center has approximately 63,000 members worldwide,  
14 including residents of Riverside County and within the local communities in the vicinity of Temecula.  
15 The Center has worked for many years to protect imperiled plants and wildlife, open space, air and  
16 water quality, and the overall quality of life for people in the Western Riverside County where the  
17 Project is proposed. Members of the Center objected to the approval and construction of the Project and  
18 will be directly and adversely affected by the Project.

19 7. Petitioner SIERRA CLUB (the “Club”) is a non-profit corporation, organized under the  
20 laws of the State of California, with its headquarters in Oakland, California. The Club is a national  
21 conservation organization with over 830,000 members. The general mission of the Club includes the  
22 enjoyment, enhancement, protection, and preservation by all lawful means of the forests, waters,  
23 wildlife, wilderness, and other natural and scenic resources of the United States and the Earth in general.  
24 The Club and its members believe that habitat alteration and elimination, diminishing water supplies,  
25 and global climate change effects from greenhouse gases pose critical threats to the continued well-  
26 being of human beings and healthy fish and wildlife population alike. The San Gorgonio Chapter of the  
27

1 Sierra Club has approximately 7,500 members who reside in Riverside and San Bernardino counties.

2 The Santa Margarita Group of the San Geronio Chapter has approximately 760 members.

3 8. Petitioner MOUNTAIN LION FOUNDATION (the “Foundation”) is a non-profit public  
4 benefit corporation incorporated in the State of California in 1986. The Foundation’s mission is to  
5 protect mountain lions and their habitat. For 31 years, the Foundation has worked with member  
6 volunteers and activists to create and further wildlife policies that seek to protect mountain lions, people,  
7 and domestic animals without resorting to lethal measures. The Foundation has approximately 7,000  
8 members.

9 9. Petitioner THE COUGAR CONNECTION (“Cougar Connection”) is a non-profit, public  
10 interest organization that is dedicated to the preservation of *Puma concolor*, Cougar populations, open  
11 space, wildlife connectivity, and public education.

12 10. Members of the Center, the Club, the Foundation, and Cougar Connection have  
13 environmental, educational, recreational, scientific, and aesthetic interests in the Project area and its  
14 plants and wildlife. These interests will be directly and adversely affected by the Project, which violates  
15 provisions of law as set forth in this Petition and which would cause irreversible harm to the natural  
16 environment and its recreational assets. The Center, the Club, the Foundation, and Cougar Connection  
17 and their members have a direct and beneficial interest in Respondents’ compliance with CEQA and  
18 California Code of Regulations, title 14, section 15000 *et seq.* (“CEQA Guidelines”). The maintenance  
19 and prosecution of this action will confer a substantial benefit on the public by protecting the public  
20 from the environmental and other harms alleged herein.

21 11. Respondent CITY OF TEMECULA (the “City”), a political subdivision of the State of  
22 California, is responsible for regulating and controlling land use in the territory of the City, including  
23 implementing and complying with the provisions of CEQA. The City is the “lead agency” for the  
24 purposes of Public Resources Code Section 21067, with principal responsibility for conducting  
25 environmental review of the proposed actions. The City has a duty to comply with CEQA and other  
26 state laws.



1 environmental impacts of the Project that are the subject of this lawsuit would occur in Riverside  
2 County, and the Project would impact the interests of Riverside County residents.

3 19. Petitioners have complied with the requirements of Public Resources Code section  
4 21167.5 by serving written notices of Petitioners' intention to commence this action on Respondents on  
5 January 10, 2018. A copy of the written notices and proof of service are attached hereto as Exhibit A.

6 20. Petitioners have complied with the requirements of Public Resources Code section  
7 21167.6 by concurrently notifying Respondents of Petitioners' election to prepare the record of  
8 administrative proceedings relating to this action. A copy of Petitioners' election to prepare the record of  
9 administrative proceedings is attached hereto as Exhibit B.

10 21. Each Petitioner has performed any and all conditions precedent to filing this instant  
11 action and has exhausted any and all administrative remedies to the extent required by law, including,  
12 but not limited to, submitting extensive written and oral comments—either jointly and individually—  
13 objecting to the approval of the Project and presenting to Respondents the flaws in its environmental  
14 review on, *inter alia*, June 17, 2016, November 30, 2016, February 14, 2017, November 15, 2017,  
15 December 6, 2017, and December 12, 2017.

16 22. Petitioners have no plain, speedy, or adequate remedy in the course of ordinary law  
17 unless this Court grants the requested writ of mandate to require Respondents to set aside certification of  
18 the EIR and approval of the Project. In the absence of such remedies, Respondents' approval will  
19 remain in effect in violation of state law.

20 23. This petition is timely filed in accordance with Public Resources Code section 21167 and  
21 CEQA Guidelines section 15112.

## 22 **GENERAL ALLEGATIONS**

### 23 **The Proposed Project**

24 24. By this action, Petitioners challenge the decision of Respondents to approve the Project  
25 based upon a legally inadequate EIR, inadequate findings of fact and statement of overriding  
26 considerations, and violations of the California Planning and Zoning Law.

1           25.     The Project is located on 270 acres of land in the City of Temecula with a development  
2 footprint of approximately 200 acres. The Project area is roughly bounded by the Santa Rosa Plateau  
3 and Temecula Escarpment to the west, the Santa Margarita Ecological Reserve (“SMER”) and the Santa  
4 Margarita River to the south, the Palomar Mountains to the southeast, and development in Temecula  
5 Valley to the north and east.

6           26.     The Project location is a biologically sensitive area, which is home to special status  
7 species, including, but not limited to, the western pond turtle, San Diego ambrosia, paniculate tarplant,  
8 burrowing owl, California gnatcatcher, yellow warbler, Cooper’s hawk, northern harrier, white-tailed  
9 kite, and California horned lark, California red-legged frog, mountain yellow-legged frog, and arroyo  
10 toad, among other species. The Project area also contains wildlife corridors of regional significance for  
11 mountain lions and other wildlife.

12           27.     The Project footprint is within Criteria Cells (also referred to as “Cell Criteria”) of the  
13 MSHCP. Criteria Cells describe areas where MSHCP conservation will be focused, and compliance  
14 with the MSHCP reserve assembly is required if a project is located within Criteria Cells. The Project  
15 also is located at the confluence of the MSHCP’s Proposed Constrained Linkage 13 along Murrieta  
16 Creek, Proposed Linkage 10 between the foothills of the Santa Ana Mountains, and Proposed  
17 Constrained Linkage 14 along Temecula Creek and the Santa Margarita River. A “Constrained  
18 Linkage” is defined in the MSHCP as a “constricted connection expected to provide for movement of  
19 identified Planning Species between Core Areas, where options for assembly of the connection are  
20 limited due to existing patterns of use.”

21 **The Western Riverside County Multiple Species Habitat Conservation Plan**

22           28.     The MSHCP is a comprehensive, multi-jurisdictional Habitat Conservation Plan for  
23 Western Riverside County which was approved pursuant to the Federal Endangered Species Act (16  
24 U.S.C. § 1539) and a Natural Communities Conservation Plan (“NCCP”) under the State NCCP Act.  
25 (Fish & Game Code §§ 2800-2835.) The MSHCP is intended to provide a coordinated Conservation  
26 Area and implementation program to preserve biological diversity in Western Riverside County.

1           29.     Under the MSHCP, the Wildlife Agencies authorize public and private development to  
2 legally “take” or “harm” covered species or their habitat outside of the MSHCP Conservation Area in  
3 exchange for MSHCP permittees complying with the MSHCP. The MSHCP acknowledges the  
4 obligation of local projects, both public and private, to mitigate their impacts on species.

5           30.     The MSHCP describes a process to allow limited changes to the status of lands conserved  
6 under the MSHCP. The “Criteria Refinement” process allows for lands to be taken out of conservation  
7 if such activities result in the same or greater conservation value and acreage to the MSHCP  
8 conservation area. The Criteria Refinement process requires MSHCP permittees to (a) demonstrate that  
9 the refinement clearly benefits Covered Species and is consistent with MSHCP polices and species  
10 conservation goals; (b) evaluate environmental review requirements, land use plan changes,  
11 transportation planning considerations, consistency with other HCPs and other factors, depending upon  
12 the scope of the Refinement; and (c) demonstrate consistency with the Reserve Assembly Accounting  
13 process in section 6.7 of the MSHCP. Criteria Refinements—much like an amendment to a General  
14 Plan—are discretionary projects that require appropriate CEQA review.

15           31.     The MSHCP describes a process for evaluating and accepting Criteria Refinements  
16 which includes the preparation of Project Information and an Equivalency Analysis. The Project  
17 Information must contain: (a) a description of the planning area for the project; (b) a narrative and  
18 graphic description of the project; (c) a narrative and graphic description of biological information,  
19 including vegetation mapping and species surveys; (d) a narrative and graphic description of the  
20 project’s efforts to be consistent with the MSHCP Criteria and an explanation as to why consistency is  
21 infeasible; and (e) a quantification and characterization of the effects/benefits of the proposed project  
22 with the proposed Criteria Refinement on habitats, species, and overall MSHCP Conservation Area  
23 design and function.

24           32.     The Equivalency Analysis must address the effects of the project on: (a) Habitats; (b)  
25 Covered Species; (c) Core Areas; (d) Linkages and Constrained Linkages; (e) Non-Contiguous Habitat  
26 blocks; (f) MSHCP Conservation Area configuration and management; and (g) Ecotones and other  
27  
28



1 conditions affecting species diversity. The Equivalency Analysis must also demonstrate that equivalent  
2 or greater acreage will be contributed to the MSHCP Conservation Area, among other items.

3 33. If a project is determined to be “biologically equivalent or superior,” then no amendment  
4 to the MSHCP is required; if the project is not determined to be “biologically equivalent or superior,”  
5 then the project is an “unacceptable deviation” from the MSHCP such that an amendment to the  
6 MSHCP is required. Amendments or modifications to the MSHCP are “not anticipated on a regular  
7 basis” and require compliance with extensive procedures set forth in section 6.10 of the MSHCP.

8 34. Criteria Refinements also require notification of the Wildlife Agencies and must be  
9 noticed agenda items of the Western Riverside County Regional Conservation Authority (“RCA”).  
10 Moreover, Criteria Refinements proposing conservation outside of the Criteria Area to meet equivalency  
11 findings are subject to approval or “concurrence” by the Wildlife Agencies.

12 35. In 2004, the City agreed to be a permittee of the MSHCP and executed the MSHCP  
13 Implementing Agreement. In 2005, the City amended its General Plan and incorporated MSHCP  
14 policies into the General Plan.

15 **Petitioners’ Comments on the Draft EIR**

16 36. On or about November 13, 2014, the City issued a Notice of Preparation for the Project,  
17 in which it notified public agencies and interested individuals that, as a lead agency, it would be  
18 preparing a Draft EIR to analyze the Project’s potentially significant environmental impacts.

19 37. In a letter to the City on April 15, 2015 (the “April 15 Letter”), the Wildlife Agencies  
20 concurred with the determination of the RCA that the Project was inconsistent with the MSHCP. The  
21 April 15 Letter noted that the Wildlife Agencies had already informed Ambient on March 20, 2014 and  
22 August 21, 2014 that the Project was inconsistent with the MSHCP and that a Criteria Refinement  
23 would be needed if the Project was to proceed as proposed. The April 15 Letter explained that  
24 Ambient’s MSHCP Consistency Report did not properly account for the presence of existing  
25 development or the impact of the Project footprint on acreage goals for each Criteria Cell and subunit in  
26 the MSHCP. The Wildlife Agencies further noted in the April 15 Letter that the Project would limit the  
27 viability of the wildlife corridors for mountain lions and other species on Proposed Constrained Linkage  
28

1 13, Proposed Linkage 10, and Proposed Constrained Linkage 14. The April 15 Letter also stated that  
2 Ambient’s MSHCP Consistency Report did not address impacts to western pond turtle nesting habitat or  
3 San Diego ambrosia.

4 38. On or about May 2, 2016, Respondents completed the Draft EIR and circulated the  
5 document for public comment.

6 39. Members of the public submitted comments pointing out the serious deficiencies in the  
7 Draft EIR. Commenters, including Petitioners, explained the Project would further threaten the Santa  
8 Ana mountain lions, significantly worsen air quality, traffic, public health and hydrologic conditions,  
9 and that it would have severe impacts on endangered and threatened biological resources, and the  
10 region’s ability to meet its climate change goals. Commenters noted that the Draft EIR failed to  
11 adequately disclose or analyze the Project’s significant air quality and climate change impacts, and  
12 failed to establish an accurate baseline for determining such impacts; failed to identify or consider  
13 adequate measures to mitigate the Project’s significant impacts on air quality and public health,  
14 including cumulative impacts; failed to identify or consider adequate measures to mitigate the Project’s  
15 significant impacts related to climate change; and failed to adequately analyze a reasonable range of  
16 alternatives that would substantially lessen the Project’s significant environmental effects.

17 40. In a letter to the City on June 17, 2016, the Club submitted comments explaining that the  
18 Project was inconsistent with the MSHCP and informing the City that development on the southern  
19 portion of the Project would constrain the last viable wildlife corridor for the Santa Ana mountain lions.

20 41. In a letter to the City on June 17, 2016, the Foundation—along with a coalition of other  
21 organizations, including the Humane Society of the United States, the Cougar Fund, the Wildlife  
22 Research Institute, the Fund for Animals, the Cougar Rewilding Foundation, the Cleveland National  
23 Forest Foundation, Predator Defense, Laguna Greenbelt, WildFutures, Ojai Raptor Center, Western  
24 Alliance for Nature, Los Angeles Audubon, San Joaquin Audubon, Animal Rescue Team, Ballona  
25 Wetlands Trust, Russian Riverkeeper, Palo Verdes/South Bay Audubon Society, Action for Animals,  
26 Eastern Sierra Wildlife Care, Wildlife Rescue, Native Animal Rescue, among other groups—jointly  
27 submitted comments that:

- 1 a. The Draft EIR uses outdated models to evaluate impacts on mountain lions.
- 2 b. The Project—combined with separately planned development on the eastern side of I-15
- 3 along an existing golf course—will severely constrain the natural corridor used by the
- 4 Santa Ana mountain lions and replace it with urban development, potentially leading to
- 5 the complete die-off of the population.

6 42. In a letter to the City on June 17, 2016, the Wildlife Agencies restated many of the issues  
7 outlined in the April 15 Letter. In addition, the Wildlife Agencies informed the City that:

- 8 a. The MSHCP implementation and the Project’s impacts on MSHCP reserve assembly is
- 9 both incorrect and misleading to the public, and that a Criteria Refinement would be
- 10 necessary unless the Project is substantially altered to comply with the MSHCP.
- 11 b. The MSHCP Consistency Report and EIR take the sub-unit acreage concept and apply
- 12 it incorrectly to an analysis of the Project’s consistency with the MSHCP. In addition,
- 13 the EIR improperly assumes that any undeveloped acre in a Criteria Cell within the
- 14 sub-unit could be conserved regardless of whether or not the area is described in the
- 15 MSHCP for conservation.
- 16 c. The Draft EIR fails to contain adequate detail—such as success criteria, standards, or
- 17 techniques—regarding Ambient’s plans to translocate the San Diego ambrosia
- 18 population existing on the Project site.
- 19 d. The Draft EIR fails to contain any assessment of habitat loss for the western pond
- 20 turtle, or analysis of potential project impacts on the western pond turtle.
- 21 e. There are ten special status species that (a) have a moderate or greater potential to occur
- 22 within the Project area and (b) are not covered by the MSHCP, such that the City
- 23 should revise and recirculate the Draft EIR after conducting site-specific surveys and
- 24 include detailed analysis on potential project impacts as well as feasible and
- 25 enforceable avoidance, minimization, and/or mitigation measures to reduce the
- 26 potential impacts to them.
- 27
- 28

1 f. The Santa Ana mountain lions already suffer from low genetic diversity and  
2 maintaining movement between the Santa Ana and Peninsular Ranges is critical to the  
3 viability of the Santa Ana mountain lions. Increased human activity associated with  
4 development on the South Parcel would permanently impair not only Proposed Linkage  
5 10 as movement and live-in-habitat for mountain lions and other wildlife, but also be  
6 detrimental to facilitating the movement of mountain lions across I-15 to the Peninsular  
7 Ranges. The Project would result in irreversible significant permanent damage to the  
8 MSHCP and to the Santa Ana mountain lions.

9 43. In a letter to the City on November 30, 2016 (the “November 30 Letter”), the Center, the  
10 Club, and Cougar Connection jointly commented that the Draft EIR failed to comply with CEQA and  
11 other laws and policies in the following respects:

- 12 a. The Draft’s EIR’s description of the Project is vague and incomplete, resulting in a  
13 failure to analyze and/or mitigate the full range of significant impacts from the Project.
- 14 b. The Project is inconsistent with various General Plan policies and the Air Quality  
15 Management Plan.
- 16 c. The Draft EIR fails to adequately disclose and/or analyze the Project’s significant  
17 impacts on aesthetics.
- 18 d. The Draft EIR fails to adequately disclose and/or analyze the Project’s significant  
19 impacts on air quality, public health, and sensitive populations. The Draft EIR fails to  
20 establish an accurate baseline for determining the Project’s air quality and public health  
21 impacts, and fails to identify or consider adequate measures to mitigate such impacts.  
22 The Draft EIR’s proposed mitigation measures to reduce air quality impacts are vague,  
23 deferred, and/or unenforceable.
- 24 e. The Draft EIR fails to adequately disclose and/or analyze the Project’s significant  
25 impacts on biological resources, including endangered, threatened, and other special  
26 status species such as the western pond turtle, San Diego ambrosia, paniculate tarplant,  
27 burrowing owl, California gnatcatcher, yellow warbler, Cooper’s hawk, northern harrier,  
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1 white-tailed kite, and California horned lark, California red-legged frog, mountain  
2 yellow-legged frog, and arroyo toad, and fails to identify or consider adequate measures  
3 to mitigate the Project's significant impacts on such species.

- 4 f. The Draft EIR fails to adequately disclose and/or analyze the Project's significant  
5 impacts on the Santa Ana mountain lions, and fails to identify or consider adequate  
6 measures or alternatives to mitigate the Project's significant impacts on this population.
- 7 g. The City and/or Ambient did not prepare a Determination of Biological Equivalent or  
8 Superior Preservation for impacts on riparian habitat, as required by the MSHCP.
- 9 h. The Draft EIR fails to establish consistency with the MSHCP because, *inter alia*, the  
10 Project would preclude Cell Criteria goals for various MSHCP Criteria Cells, interfere  
11 with the functionality of Proposed Linkage 10, degrade biological connectivity between  
12 Proposed Linkage 10 and Constrained Linkage 14, and preclude MSHCP reserve  
13 assembly goals.
- 14 i. The Draft EIR fails to adequately disclose, analyze or mitigate the Project's significant  
15 impacts related to GHGs. The Draft EIR fails to establish an accurate and factually-  
16 supported baseline and threshold of significance for determining the Project's GHG  
17 impacts. The Draft EIR fails to properly analyze the Project's potential to undermine the  
18 State's climate goals.
- 19 j. The Draft EIR fails to adequately disclose, analyze or mitigate the significant impacts of  
20 the Project's fuel modification plans.
- 21 k. The Draft EIR fails to adequately disclose, analyze or mitigate the Project's significant  
22 impacts related to water quality and water supplies.
- 23 l. The Draft EIR fails to adequately disclose, analyze or mitigate the Project's significant  
24 impacts on wildlife and people caused by noise.
- 25 m. The Draft EIR fails to adequately disclose, analyze or mitigate the Project's significant  
26 traffic impacts.
- 27  
28

1 n. The Draft EIR fails to adequately disclose, analyze or mitigate the Project’s significant  
2 cumulative impacts, including cumulative impacts to biological resources, air quality,  
3 GHG emissions, water quality, water supplies, and traffic.

4 44. On February 14, 2017, the City Council conducted a public hearing arising from a request  
5 from City staff for direction from the City Council on future uses and/or activities on the 55-acre South  
6 Parcel of the Altair Project. During the hearing, Petitioners presented oral comments requesting that the  
7 City designate the South Parcel as open space in order to reduce impacts on the Santa Ana mountain  
8 lions. The Wildlife Agencies submitted a letter earlier in the day on February 14, 2017 explaining that  
9 the South Parcel—which is at the confluence of two linkages—is a “poor site for an interpretive center”  
10 and that wildlife corridors are not an appropriate place for a trail system with associated human  
11 presence. The Wildlife Agencies again stated that development of the South Parcel would interfere with  
12 the functionality of two MSHCP wildlife corridors whose width and distance from human activity are  
13 critical for the mountain lion population in the Santa Ana Mountains.

14 45. Nonetheless, the City Council announced during the February 14, 2017 public hearing  
15 that it intended to designate the South Parcel for development as part of the Project as an “interpretive  
16 center” with the option to develop the South Parcel with a more intensive use such as a hospital, college,  
17 or other civic use in the event that a lawsuit was filed against the Project.

18 **Petitioners’ Comments on the Final EIR**

19 46. On or about November 3, 2017, the City released its Final EIR, which included text  
20 changes to the Draft EIR and Respondents’ responses to public comments on the Draft EIR. The City  
21 asserted in staff materials that it had prepared a “Technical Memo” that responded to issues raised in the  
22 November 30 Letter, but such a memo was not released to the public or seen by Petitioners. The City’s  
23 failure to disclose or analyze the Project’s impacts, as summarized above and explained in comments  
24 from Petitioners and other commenters, persisted in the Final EIR. Furthermore, the Final EIR failed to  
25 address the vast majority of the issues raised by the Wildlife Agencies, including the failure of the Final  
26 EIR to establish consistency with the MSHCP.

1           47.     On November 15, 2017, the City’s Planning Commission conducted a public hearing on  
2 the Project. During the hearing, Petitioners presented additional oral comments on the deficiencies of  
3 the Project and the Final EIR. The City’s Planning Commission nonetheless recommended that the City  
4 Council approve of the Project.

5           48.     In a letter on December 2, 2017, the Center, the Club, and Cougar Connection further  
6 explained the ongoing deficiencies of the Final EIR, commenting that the Final EIR and associated  
7 project approval documents failed to comply with CEQA and other laws and policies in the following  
8 respects:

- 9           a.     The Final EIR’s responses to comments fail to include good faith and reasoned analysis  
10           in response to comments by Petitioners, the Wildlife Agencies, and independent  
11           mountain lion experts, among other stakeholders.
- 12           b.     The Final EIR’s description of the Project is vague and incomplete, resulting in a failure  
13           to analyze and/or mitigate the full range of significant impacts from the Project.
- 14           c.     The Final EIR fails to adequately disclose and/or analyze the Project’s significant impacts  
15           on the Santa Ana mountain lions or acknowledge the importance of the I-15 corridor  
16           crossing to the population, and fails to identify or consider adequate measures or  
17           alternatives to mitigate the Project’s significant impacts on this population.
- 18           d.     The Final EIR misleadingly states that only a “nature center” is proposed for the South  
19           Parcel even though the Final EIR elsewhere states that many other uses would be  
20           permitted, and fails to analyze or mitigate the impacts of uses on the South Parcel.
- 21           e.     The Final EIR fails to disclose or analyze the effects of human activity arising from the  
22           Project on mountain lions and other wildlife, despite the strong evidence that human  
23           activity affects wildlife behavior.
- 24           f.     The Final EIR fails to disclose that the South Parcel is designated for development in part  
25           so that Ambient can dispose of hundreds of thousands of cubic yards of construction dirt  
26           there, thereby avoiding the cost of transporting the dirt offsite.

- 1 g. The Final EIR fails to disclose, analyze, and/or mitigate the Project's significant impacts  
2 on the western pond turtle.
- 3 h. The Final EIR impermissibly defers the development of mitigation measures for impacts  
4 on the San Diego ambrosia.
- 5 i. The Final EIR fails to establish consistency with the MSHCP, particularly through  
6 compliance with the Criteria Refinement Process.
- 7 j. The Final EIR fails to establish consistency with the City's General Plan.
- 8 k. An amended Draft EIR must be circulated due to the significant new information and  
9 data included in the Final EIR.
- 10 l. The Final EIR fails to adequately disclose, analyze or mitigate the Project's significant  
11 impacts on water supplies.
- 12 m. The Final EIR fails to adequately disclose and/or analyze the Project's significant impacts  
13 on air quality, public health, and sensitive populations, particularly regarding the well-  
14 documented public health risks of siting homes next to highways or freeways.
- 15 n. The Final EIR's alternatives analysis fails to consider a range of feasible alternatives and  
16 provides insufficient comparative analysis of proffered alternatives. The Final EIR fails  
17 to demonstrate that a smaller project is not feasible.
- 18 o. The Final EIR's Statement of Overriding Considerations is inadequate.

19 **Respondents' Approval of the EIR**

20 49. On November 29, 2017, representatives of Petitioners as well as other conservation  
21 groups had a meeting with the City's Mayor, Matt Rahn, as well as City Planning staff, a representative  
22 of Ambient, and representatives of the Wildlife Agencies and the RCA. Petitioners along with the  
23 Wildlife Agencies requested that the City delay approval of the Project for at least 30 days so that the  
24 various stakeholders (a) would have adequate time to review and comment on any revised MSHCP  
25 consistency analysis prior to Project approval and (b) work collaboratively with the City and Ambient  
26 on resolving the problems with the Project. Mayor Rahn indicated that he would request such an  
27



1 extension from the other Council Members during the upcoming December 12 meeting of the City  
2 Council, but the representative from Ambient indicated that he would not support such an extension.

3 50. On the evening of Friday, December 8, 2017, the City posted the staff agenda materials  
4 for the December 12, 2017 meeting of the City Council. The staff agenda materials included a letter  
5 from the RCA dated December 7, 2017 (the “December 7 Letter”), which stated that the RCA had  
6 previously found that the Project was inconsistent with the MSHCP, but that if 12 listed measures were  
7 incorporated as conditions of approval for the Project, then the RCA would find the Project now  
8 consistent with the MSHCP. Measure No. 1 in the December 7 Letter stated: “Final EIR, Chapter 2 will  
9 acknowledge the RCA and Wildlife Agencies’ require that the method for determining MSHCP  
10 consistency is at the individual Criteria Cell level pursuant to the MSHCP.” Although the 12 listed  
11 measures in the December 7 Letter include additional measures not contained in the Final EIR, the  
12 December 7 Letter did not require the City or Ambient to fully comply with the Criteria Refinement  
13 process.

14 51. In addition, on the evening of December 8, 2017, the City posted a short document  
15 entitled “Addition to Final EIR.” The City did not release a revised version of the Final EIR, nor did the  
16 City indicate which portions—if any—of the Final EIR were superseded by the “Addition to the Final  
17 EIR.”

18 52. On December 12, 2017, Respondents conducted a public hearing on the proposed Project  
19 and Final EIR to determine whether to certify the Final EIR. Members of the public, including  
20 Petitioners, attended the public hearing and opposed the certification of the Final EIR and approval of  
21 the Project as currently proposed. Petitioners again requested that the City designate the South Parcel as  
22 open space so that it could function as a viable wildlife corridor. Petitioners and the Wildlife Agencies  
23 also requested that the City delay approval of the Final EIR until the project approval documents were  
24 revised to show consistency with the MSHCP and address other inadequacies with the Project.

25 53. In response to these requests, Mayor Rahn asked the other City Council Members to  
26 agree to delay project approval for a short period of time in order to work collaboratively with the  
27 Wildlife Agencies and environmental community in addressing the issues with the Project. Mayor Pro  
28

1 Tem Michael Naggar, Council Member Maryann Edwards, and Council Member Jeff Comerchero  
2 refused Mayor Rahn’s request. The City Council then approved the Project and certified the Final EIR  
3 by a 4 to 1 vote, with Council Member James Stewart voting against approval.

4 54. On December 12, 2017, Ambient’s consultants at Helix Environmental Planning finalized  
5 a “Functional Equivalency Analysis for the Western Bypass and Altair Specific Plan Amendment  
6 Development Footprint and approximately 66 acres of land proposed for conservation on Assessor  
7 Parcel Numbers 918-080-008 and 918-080-009 under the Multiple Species Habitat Conservation Plan  
8 and Standards for an Additional 100 Acres” (the “FEA”). The FEA was not released to the public until  
9 after the December 12 approval of the Project. The FEA contained many of the same analytical  
10 shortcomings of the MSHCP analyses in the Final EIR.

11 55. On December 13, 2017, the City filed the “Notice of Determination” for the Project, even  
12 though the Project had not yet undergone a second reading as required by California law.

13 **FIRST CAUSE OF ACTION**

14 **Violation of CEQA – Inadequate EIR**

15 **(Public Resources Code § 21000, *et seq.*)**

16 56. Petitioners hereby incorporate by reference each and every allegation set forth above.

17 57. CEQA is designed to ensure that long-term protection of the environment be the guiding  
18 criterion in public decisions. CEQA requires the lead agency for a project with the potential to cause  
19 significant environmental impacts to prepare an EIR that complies with the requirements of the statute,  
20 including, but not limited to, the requirement to analyze the project’s potentially significant  
21 environmental impacts. The EIR must provide sufficient environmental analysis such that the  
22 decisionmakers can intelligently consider environmental consequences when acting on the proposed  
23 project. Such analysis must include and rely upon thresholds of significance that are based on  
24 substantial evidence before the decisionmakers. Additionally, the EIR must analyze feasible mitigation  
25 measures and a reasonable range of alternatives to the project.

26 58. CEQA also mandates that the lead agency adopt feasible and enforceable mitigation  
27 measures that would reduce or avoid any of a project’s significant environmental impacts. If any of the  
28

1 project's significant impacts cannot be mitigated to a less than significant level, then CEQA bars the  
2 lead agency from approving a project if a feasible alternative is available that would meet the project's  
3 objectives while avoiding or reducing its significant environmental impacts.

4 59. CEQA requires that substantial evidence in the administrative record support all of the  
5 EIR and agency's findings and conclusions, and that the agency explain how the evidence in the record  
6 supports the conclusions the agency has reached.

7 60. Respondents committed a prejudicial abuse of discretion and failed to proceed in a  
8 manner required by law by relying on an EIR that fails to meet the requirements of CEQA for  
9 disclosure, analysis, and/or mitigation of significant project impacts on biological resources, air quality,  
10 GHGs, water supplies, water quality, traffic, aesthetics, noise, and applicable land use policies including  
11 the MSHCP.

12 61. **MSHCP Consistency.** The EIR fails to analyze, disclose, or mitigate the significant  
13 impacts associated with the Project's inconsistency with the MSHCP, the MSHCP Implementing  
14 Agreement, the MSHCP Natural Community Conservation Plan permit, and the MSHCP Incidental  
15 Take Permit. The Project violates CEQA due to these inconsistencies with the MSHCP because, *inter*  
16 *alia*:

- 17 a. The EIR fails to establish that the Project complies with the MSHCP Criteria Refinement  
18 procedures, including, but not limited to, (1) preparation of an Equivalency Analysis, (2)  
19 noticing the Refinement as an agenda item before the RCA; (3) demonstrating  
20 concurrence by the Wildlife Agencies, and (4) demonstrating that the Refinement has  
21 undergone appropriate CEQA review.
- 22 b. The EIR fails to establish that the City and/or Ambient prepared an adequate  
23 Determination of Biological Equivalent or Superior Preservation for impacts on riparian  
24 habitat;
- 25 c. The EIR's MSHCP Consistency Report incorrectly calculates the shortfall of MSHCP  
26 acreage for the Project, including by assuming that any undeveloped acreage in a Criteria  
27

1 Cell within the sub-unit could be conserved regardless of whether or not the area was  
2 described for conservation.

- 3 d. The EIR fails to address that (1) the MSHCP does not envision development on the South  
4 Parcel; (2) wildlife corridors including the MSHCP's Proposed Constrained Linkage 13,  
5 Proposed Linkage 10, and Constrained Linkage 14 are not appropriate sites for  
6 development; (3) the Project and associated increases in human activity would  
7 permanently impair the functionality of these MSHCP linkages as movement and live-in  
8 habitat for mountain lions and other wildlife.

9 62. **Impacts on Mountain Lions.** The EIR fails to analyze, disclose, and/or mitigate the  
10 direct, indirect, and cumulative impacts of the Project on mountain lions, including the Santa Ana  
11 mountain lion population. CEQA defines an impact as significant if the Project may substantially  
12 reduce the habitat of a fish or wildlife species or threaten to eliminate a plant or animal community. The  
13 Project would threaten to eliminate the Santa Ana population of mountain lions by substantially  
14 degrading the wildlife corridors that are critical for the continued survival of the population.

15 63. **Environmental Setting.** The EIR fails to comply with CEQA's requirements to provide  
16 an adequate and accurate description of the environmental setting of the Project area. (CEQA  
17 Guidelines § 15125.) The EIR's description of the environmental setting is inadequate because, but not  
18 limited to, its failure to:

- 19 a. adequately disclose the Project area's importance as a habitat corridor and linkage for  
20 mountain lions and other wildlife;  
21 b. establish that protocol-level surveys were performed on all appropriate species; and,  
22 c. disclose the results of all biological surveys conducted on the Project site.

23 64. **Project Description.** The EIR does not contain a legally adequate Project description  
24 because, *inter alia*, the EIR claims a "nature center" is proposed for the South Parcel but elsewhere  
25 provides that many other uses would be permitted.

1           65.     **Air Quality.** The EIR fails to adequately disclose, analyze and/or mitigate the Project’s  
2 significant and cumulative impacts to air quality. The EIR’s analysis of air quality impacts is inadequate  
3 because, but not limited to, its failure to:

- 4           a.     disclose or analyze the impacts of the Project on sensitive populations;
- 5           b.     disclose or analyze the impacts of siting homes immediately adjacent to a highway;
- 6           c.     adopt all feasible mitigation measures and consider alternatives that would reduce  
7           impacts.

8           66.     **Greenhouse Gases.** The EIR fails to adequately disclose, analyze and/or mitigate the  
9 Project’s significant and cumulative GHG impacts. The EIR relies upon an improper significance  
10 threshold when determining the significance of the Project’s GHG emissions. In addition, the EIR’s  
11 GHG mitigation measures are vague, deferred, and/or unenforceable, and fail to set forth specific  
12 numerical reductions in GHG emissions these measures will achieve.

13           67.     **Biological Resources.** The EIR fails to adequately disclose, analyze and/or mitigate the  
14 Project’s significant and cumulative impacts to biological resources, including numerous animal and  
15 plant species affected by the Project. Those species include, but are not limited to, the western pond  
16 turtle, San Diego ambrosia, paniculate tarplant, burrowing owl, California gnatcatcher, yellow warbler,  
17 Cooper’s hawk, northern harrier, white-tailed kite, and California horned lark, California red-legged  
18 frog, mountain yellow-legged frog, and arroyo toad. The EIR’s biological resources analysis is  
19 inadequate because, *inter alia* the EIR’s mitigation measures are vague, deferred, and/or unenforceable;

20           68.     **Traffic.** The EIR fails to adequately disclose, analyze and/or mitigate the Project’s  
21 significant and cumulative traffic impacts.

22           69.     **Water Supplies.** The EIR does not adequately disclose, analyze and/or mitigate the  
23 Project’s significant impacts to water supplies.

24           70.     **Aesthetics.** The EIR does not adequately disclose, analyze and/or mitigate the Project’s  
25 significant impacts to aesthetics.

26           71.     **Alternatives.** The EIR fails to provide a selection and discussion of alternatives that  
27 foster informed decision-making and informed public participation. The alternatives analysis in the EIR  
28

1 does not meet the requirement of a reasonable range of alternatives that lessen the Project’s significant  
2 environmental impacts, and does not focus on alternatives that either eliminate adverse impacts or  
3 reduce them to insignificance, even if they would to some degree impede the Project’s objectives, as  
4 required by CEQA.

5       72.     **Responses to Comments.** The responses to comments in the Final EIR fail to meet  
6 CEQA’s requirements in that they neither adequately dispose of all the issues raised, nor provide  
7 specific rationale for rejecting suggested Project changes, mitigation measures, or alternatives. CEQA  
8 requires that the lead agency evaluate and respond to all environmental comments on the Draft EIR that  
9 it receives during the public review period. The responses must describe the disposition of the issues  
10 raised and must specifically explain reasons for rejecting suggestions and for proceeding without  
11 incorporating the suggestions. The Final EIR’s responses to comments fail to satisfy the requirements of  
12 law.

13       73.     **Public Participation.** The EIR and accompanying Development Agreement are  
14 designed to frustrate public participation in the CEQA process by allowing more intensive development  
15 on the South Parcel “if a legal action or actions (based on CEQA or otherwise) is filed against all or any  
16 portion of the Project,” thereby retaliating against any group that files suit to challenge the legal  
17 inadequacies of the project approvals. Such provisions also violate CEQA because they are contrary to  
18 California public policy and amount to an impermissible impairment on the right of access to the courts.

19       74.     The EIR fails to reflect the independent judgment of Respondents.

20       75.     Based upon each of the foregoing reasons, the EIR is legally defective under CEQA.  
21 Respondents prejudicially abused their discretion in violation of CEQA in approving the Project. As  
22 such, the Court should issue a writ of mandate directing Respondents to set aside the certification of the  
23 EIR and approval of the Project.

1 **SECOND CAUSE OF ACTION**

2 **Violation of CEQA – Inadequate Statement of Overriding Considerations and Findings**

3 **(Public Resources Code § 21000, *et seq.*)**

4 76. Petitioners hereby incorporate by reference each and every allegation set forth above.

5 77. Respondents’ Findings of Fact and Statement of Overriding Considerations violate the  
6 requirements of the CEQA Guidelines. The Findings fail to identify the changes or alterations that are  
7 required to avoid or substantially lessen the project’s significant environmental effects. (CEQA  
8 Guidelines § 15091(a)(1). The purported benefits of the Project cited in the Statement of Overriding  
9 Considerations do not outweigh the substantial costs of the Project on public health and the  
10 environment. The Findings and Statement of Overriding Considerations are not supported by substantial  
11 evidence. (CEQA Guidelines, § 15091(b).)

12 78. Where mitigation measures and alternatives to a project are not adopted, the CEQA  
13 findings must identify specific economic, legal, social and technological and other considerations that  
14 make infeasible the adoption of mitigation measures or alternatives. All CEQA findings must be  
15 supported by substantial evidence in the record and must disclose the analytical route by which approval  
16 of the Project is justified. The findings regarding the impacts, mitigation measures, and alternatives  
17 relied upon by Respondents’ approval of the Project are not supported by substantial evidence in the  
18 record, and the links between evidence and conclusions are not satisfactorily provided.

19 79. Respondents’ Findings of Fact and Statement of Overriding Considerations fail to reflect  
20 the independent judgment of Respondents.

21 80. As a result of the foregoing defects, Respondents did not proceed in the manner required  
22 by law, and their decision to approve the Project was not supported by substantial evidence.

23 **THIRD CAUSE OF ACTION**

24 **Violation of CEQA – Failure to Recirculate EIR**

25 **(Public Resources Code § 21000, *et seq.*)**

26 81. Petitioners hereby incorporate by reference each and every allegation set forth above.  
27  
28

1 82. CEQA requires that if significant new information is added to an EIR after a draft EIR is  
2 prepared, but before certification of the final EIR, an amended EIR must be amended and recirculated  
3 for public review and comment.

4 83. The December 7 Letter and the “Addition to Final EIR,” among other items, amount to  
5 substantial changes to the Project which added significant new information to the EIR prior to the City’s  
6 December 12, 2017 decision to certify the EIR as compliant with CEQA.

7 84. Despite the changes, Respondents failed to recirculate the EIR or any portion of the EIR  
8 as required CEQA, nor did Respondents update the text of the Final EIR to reflect the proposed changes  
9 in the December 7 Letter or the “Addition to Final EIR.” As a result of Respondents’ failure to  
10 recirculate the EIR, the public and other public agencies were deprived of any meaningful opportunity to  
11 review and comment on the approved Project, its substantial adverse environmental consequences, and  
12 the new information regarding other unanalyzed environmental effects of the Project.

13 85. By failing to amend and recirculate the EIR, Respondents failed to proceed in the manner  
14 required by law, and their decision to approve the Project was not supported by substantial evidence.

15 **FOURTH CAUSE OF ACTION**

16 **Violation of California Planning and Zoning Law**

17 **(Government Code § 65300, et seq.)**

18 86. Petitioners hereby incorporate by reference each and every allegation set forth above.

19 87. The California Planning and Zoning Law provides that the City’s General Plan is a  
20 fundamental land use planning document and serves as the constitution for future development within  
21 the City. Land use actions, including the approvals associated with the Project, must be consistent with  
22 the General Plan.

23 88. The Project is inconsistent with numerous mandatory General Plan policies, including,  
24 but not limited to, (a) policies within the Community Design Element, including Policies 5.1, 5.2, and  
25 5.3; (b) policies within the Open Space/Conservation Element, including Policies 3.2, 3.3, and 3.7; (c)  
26 policies within the Land Use Element, including Policy 6.3; (d) policies and programs incorporating the  
27



1 MSHCP into to the General Plan, including, but not limited to, Implementation Programs OS-9 and OS-  
2 35.

3 89. As a result of the foregoing defects, Respondents did not proceed in the manner required  
4 by law, and their decision to approve the Project was not supported by substantial evidence.

5 WHEREFORE, Petitioners pray for judgment as follows:

6 **PRAAYER FOR RELIEF**

7 1. For a temporary stay, temporary restraining order, and preliminary and permanent  
8 injunctions restraining Respondents and Ambient and their agents, servants, and employees, and all  
9 others acting in concert with them or on their behalf, from taking any action to implement, fund or  
10 construct any portion or aspect of the Project, pending full compliance with the requirements of CEQA,  
11 the CEQA Guidelines, the MSHCP, and the California Planning and Zoning Law;

12 2. For alternative and peremptory writs of mandate directing Respondents to vacate and set  
13 aside certification of the EIR and approval documents for the Project;

14 3. For alternative and peremptory writs of mandate directing Respondents to comply with  
15 CEQA, the CEQA Guidelines, the MSHCP, and the California Planning and Zoning Law, and take any  
16 other action as required by Public Resources Code section 21168.9;

17 4. For a declaration that Respondents' actions in certifying the EIR and approving the  
18 Project violated CEQA, the CEQA Guidelines, the MSHCP, and the California Planning and Zoning  
19 Law, and that the certification and all project approvals are invalid and of no force or effect;

20 5. For costs of the suit;

21 6. For attorney's fees as authorized by Code of Civil Procedure section 1021.5 and other  
22 provisions of law; and,

23 7. For such other and future relief as the Court deems just and proper.

24 \\\

1 DATED: January 11, 2018

CENTER FOR BIOLOGICAL DIVERSITY

2  
3 By: 

4 John Rose  
5 Aruna Prabhala  
6 John Buse

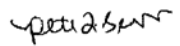
7 Attorneys for Petitioners CENTER FOR  
8 BIOLOGICAL DIVERSITY, SIERRA CLUB,  
9 MOUNTAIN LION FOUNDATION, and THE  
10 COUGAR CONNECTION

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1 **VERIFICATION**

2 I am the Director of Programs for the Center for Biological Diversity, which is a party  
3 to this action. I am authorized to make this verification for and on its behalf, and I make this  
4 verification for that reason. I have read the foregoing document and know its contents. The  
5 matters stated in it are true of my own knowledge except as to those matters that are stated on  
6 information and belief, and as to those matters I believe them to be true.

7 I declare under penalty of perjury under the laws of the State of California that the  
8 foregoing is true and correct. Executed this 11th day of January, 2018, in Shelter Cove,  
9 California.

10  
11   
12 Peter Galvin

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# EXHIBIT A



***Via FedEx***

January 10, 2018

City Council of the City of Temecula  
c/o City Clerk  
41000 Main Street  
Temecula, California 92590

**Re: Notice of Commencement of Legal Action Pursuant to the California Environmental Quality Act**

Dear City Council of Temecula,

The Center for Biological Diversity, Sierra Club, Mountain Lion Foundation and Cougar Connection (“Petitioners”) intend to commence an action for writ of mandate to vacate and set aside the decision of the City of Temecula and the City Council of the City of Temecula (“Respondents”) approving the Altair Specific Plan (the “Project”) and certifying an Environmental Impact Report for the Project. Petitioners submit this notice to pursuant to Public Resources Code section 21167.5.

The action will commence on January 11, 2018, and will be based upon on Respondents’ failure to comply with the California Environmental Quality Act (Public Resources Code § 21000 *et seq.*) in adopting the Environmental Impact Report and approving the Project.

Sincerely,

John Rose  
Staff Attorney  
Center for Biological Diversity



***Via FedEx***

January 10, 2018

Randi Johl  
City Clerk  
41000 Main Street  
Temecula, California 92590

**Re: Notice of Commencement of Legal Action Pursuant to the California Environmental Quality Act**

Dear Ms. Johl:

The Center for Biological Diversity, Sierra Club, Mountain Lion Foundation and Cougar Connection (“Petitioners”) intend to commence an action for writ of mandate to vacate and set aside the decision of the City of Temecula and the City Council of the City of Temecula (“Respondents”) approving the Altair Specific Plan (the “Project”) and certifying an Environmental Impact Report for the Project. Petitioners submit this notice to pursuant to Public Resources Code section 21167.5.

The action will commence on January 11, 2018, and will be based upon on Respondents’ failure to comply with the California Environmental Quality Act (Public Resources Code § 21000 *et seq.*) in adopting the Environmental Impact Report and approving the Project.

Sincerely,

John Rose  
Staff Attorney  
Center for Biological Diversity

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF ALAMEDA

3 I am employed in Oakland, California. I am over the age of 18 and not a party to the foregoing  
4 action. My business address is Center for Biological Diversity, 1212 Broadway, Suite 800, Oakland,  
5 California 94612. My email address is [ckilmer@biologicaldiversity.org](mailto:ckilmer@biologicaldiversity.org).

6 On January 10, 2018, I served a true and correct copy of the following document(s):

7 **NOTICE OF COMMENCEMENT OF LEGAL ACTION PURSUANT TO CEQA**

8  BY ELECTRONIC SERVICE: By electronically mailing a true and correct copy through  
9 Center for Biological Diversity's electronic mail system to the email address(s) shown on the following  
10 service list.

11  BY FEDERAL EXPRESS: By placing a true and correct copy thereof in sealed envelope(s).  
12 Such envelope(s) were addressed as shown below. Such envelope(s) were deposited for collection and  
13 mailing following ordinary business practices with which I am readily familiar.

14  
15 City Council of the City of Temecula  
16 c/o City Clerk  
17 41000 Main Street  
18 Temecula, California 92590

18  
19 Randi Johl  
20 City Clerk  
21 41000 Main Street  
22 Temecula, California 92590

21  STATE: I declare under penalty of perjury under the law of California that the foregoing is  
22 true and correct.

23 Executed on January 10, 2018 at Oakland, California.

24  
25  
26 

27 Colyn Kilmer  
28

# EXHIBIT B



1 John Rose (SBN 285819)  
2 CENTER FOR BIOLOGICAL DIVERSITY  
3 660 S. Figueroa Street, Suite 1000  
4 Los Angeles, California 90017  
5 Telephone: (213) 785-5400  
6 Facsimile: (213) 785-5748  
7 jrose@biologicaldiversity.org

8 John Buse (SBN 163156)  
9 Aruna Prabhala (SBN 278865)  
10 CENTER FOR BIOLOGICAL DIVERSITY  
11 1212 Broadway, Suite 800  
12 Oakland, California 94612  
13 Telephone: (510) 844-7100  
14 Facsimile: (510) 844-7150  
15 jbuse@biologicaldiversity.org  
16 aprabhala@biologicaldiversity.org

17 Attorneys for Center for Biological Diversity  
18 Sierra Club, Mountain Lion Foundation, and  
19 the Cougar Connection

20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
21 **COUNTY OF RIVERSIDE**

22 CENTER FOR BIOLOGICAL DIVERSITY,  
23 SIERRA CLUB, MOUNTAIN LION  
24 FOUNDATION, and THE COUGAR  
25 CONNECTION,

26 Petitioners,

27 v.

28 CITY OF TEMECULA, CITY COUNCIL OF  
CITY OF TEMECULA; and DOES 1 through  
20, inclusive,

Respondents.

AMBIENT COMMUNITIES, LLC;  
TEMECULA WEST VILLAGE, LLC and  
DOES 21 through 40, inclusive,

Real Parties in Interest.

Case No.

**PETITIONERS' NOTICE OF ELECTION  
TO PREPARE ADMINISTRATIVE  
RECORD**

[Pub. Res. Code § 21167.6]

1                   **TO RESPONDENTS CITY OF TEMECULA AND CITY COUNCIL OF CITY OF**  
2 **TEMECULA:**

3                   In the above-captioned action (the “Action”), Petitioners Center for Biological Diversity, Sierra  
4 Club, Mountain Lion Foundation and the Cougar Connection petition this Court for a Writ of Mandate,  
5 directed to Respondents City of Temecula and City Council of City of Temecula (“Respondents”).  
6 Petitioners challenge Respondents’ December 12, 2017 certification of the Final Environmental Impact  
7 Report for the Altair Specific Plan (the “Project”). Petitioners seek a determination that Respondents’  
8 approval of the Project is invalid and void and fails to satisfy the requirements of the California  
9 Environmental Quality Act (“CEQA”), Public Resources Code section 21000 *et seq.*, and the CEQA  
10 Guidelines, Title 14, California Code of Regulations, section 15000 *et seq.*

11                   Pursuant to Public Resources Code section 21167.6(b)(2), Petitioners hereby elect to prepare the  
12 record of proceedings related to the Action. The record will be organized chronologically, paginated  
13 consecutively, and indexed so that each document may be clearly identified as to its contents and source,  
14 in a form and format consistent with California Rules of Court, Rule 3.2205.

15                   Petitioners will include in the record of proceedings all documents, including transcripts, minutes  
16 of meetings, notices, correspondence, reports, studies, proposed decisions, final drafts, and any other  
17 documents or records relating to Respondents’ determination to approve the Project.

18  
19 DATED: January 11, 2018

CENTER FOR BIOLOGICAL DIVERSITY

20  
21 By:



John Rose  
John Buse  
Aruna Prabhala

22  
23  
24 Attorneys for Petitioners CENTER FOR  
25 BIOLOGICAL DIVERSITY, SIERRA CLUB,  
26 MOUNTAIN LION FOUNDATION and THE  
27 COUGAR CONNECTION