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15
16 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

17
18 YOUTH FOR ENVIRONMENTAL JUSTICE;
SOUTH CENTRAL YOUTH LEADERSHIP
19 COALITION; CENTER FOR BIOLOGICAL
DIVERSITY,

20 *Petitioners and Plaintiffs,*

21 v.

22 CITY OF LOS ANGELES; CITY OF LOS
23 ANGELES DEPARTMENT OF CITY
PLANNING; MICHAEL J. LOGRANDE,
24 in his official capacity as Director of Los
Angeles Department of City Planning;
25 DOES 1 through 20 inclusive,

26 *Respondents and Defendants.*
27
28

Case No.

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

**[Cal. Code Civ. Proc. §§ 1060,
1085; Cal. Pub. Res. Code §§
2100 et seq.; Cal. Gov't. Code §
11135]**

1 (caption continued from cover page)

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1 **INTRODUCTION**

2 1. Thousands of young people live, learn, and play in Los Angeles neighborhoods
3 besieged by oil wells—many of which sit right next to homes, schools, and playgrounds. Drilling at
4 these oil wells exposes young people to a wide array of health and safety risks caused by dangerous
5 chemicals and emissions. These risks include, among other things, respiratory problems, bloody
6 noses, eye irritation, and headaches and neurological problems. Recent conditions at one site were
7 so bad that federal experts—sent by the EPA to investigate after years of complaints by those living
8 nearby—experienced sore throats, coughing, and headaches that lingered for hours. Residents near
9 another site described it as a “living hell.” Tens of thousands of Angelenos live within one mile of an
10 oil well, and, as a result, have no choice but to face these risks every day. And those most
11 vulnerable to these hazards are young people of color and those in low-income communities, who
12 already face disproportionate environmental risks.

14 2. The City of Los Angeles has for years employed a pattern or practice of rubber
15 stamping oil-drilling applications in violation of the California Environmental Quality Act (CEQA).
16 Through blanket exemptions, and with an overall disregard for CEQA, officials routinely free both
17 the City and oil companies from what the law requires: a case-by-case review of the environmental,
18 health, and safety impacts of these dangerous operations. The City’s practice of issuing blanket
19 exemptions without undertaking the review required by law, especially in light of the residential
20 character of the neighborhoods in which drilling occurs, deprives affected residents of important
21 environmental protections. The City has exacerbated these failures by allowing expanded oil
22 drilling without holding public meetings or maintaining adequate public records of its decisions.

24 3. When the City has imposed conditions on oil drilling, it has done so in a racially
25 disparate manner. Time and again, it has required less protective conditions in neighborhoods
26 where a vast majority of residents are people of color than in communities with more white
27 residents. Drilling sites in South Los Angeles and Wilmington—neighborhoods where the vast
28 majority of residents are black and Latino—are on average hundreds of feet closer to schools,

1 playgrounds, and parks than drilling sites in neighborhoods such as West Los Angeles and Wilshire
2 with larger numbers of white residents. Oil companies in South Los Angeles and Wilmington have
3 been allowed to use highly polluting diesel rigs and skimp on walls and other protective enclosures.
4 In wealthy Westside communities, by contrast, oil companies near residences are typically required
5 to use electric drilling rigs and build extensive enclosures, including sound-proofed structures that
6 look like office buildings. The result is that the City has disproportionately exposed the plaintiffs
7 and their communities to health and safety risks. The City's actions amount to unlawful racial
8 discrimination and a denial of environmental justice.

9
10 4. Because the City of Los Angeles has failed to live up to its moral and legal
11 responsibility to protect its young people—and all of its residents—from the risks posed by oil
12 drilling, plaintiffs Youth for Environmental Justice, South Central Youth Leadership Coalition
13 (SCYLC), and the Center for Biological Diversity (on behalf of its youth members and members
14 who particularly are concerned about the impacts on their children, grandchildren and other young
15 relatives) bring this action for declaratory and equitable relief to redress the City's unlawful actions,
16 which have wrongly elevated corporate profits above human life. As members of the youngest
17 generation, these plaintiffs have the most at stake in ensuring that the air, water, and environment
18 of Los Angeles are protected in the decades to come. They have a fundamental human right to grow
19 up in a healthy environment and a strong interest in protecting the earth's climate, on which the
20 survival of future generations depends.

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Figure 1: Oil drilling in a residential area of South Central Los Angeles, with homes immediately adjacent to oil-extraction operations using a highly polluting diesel rig.

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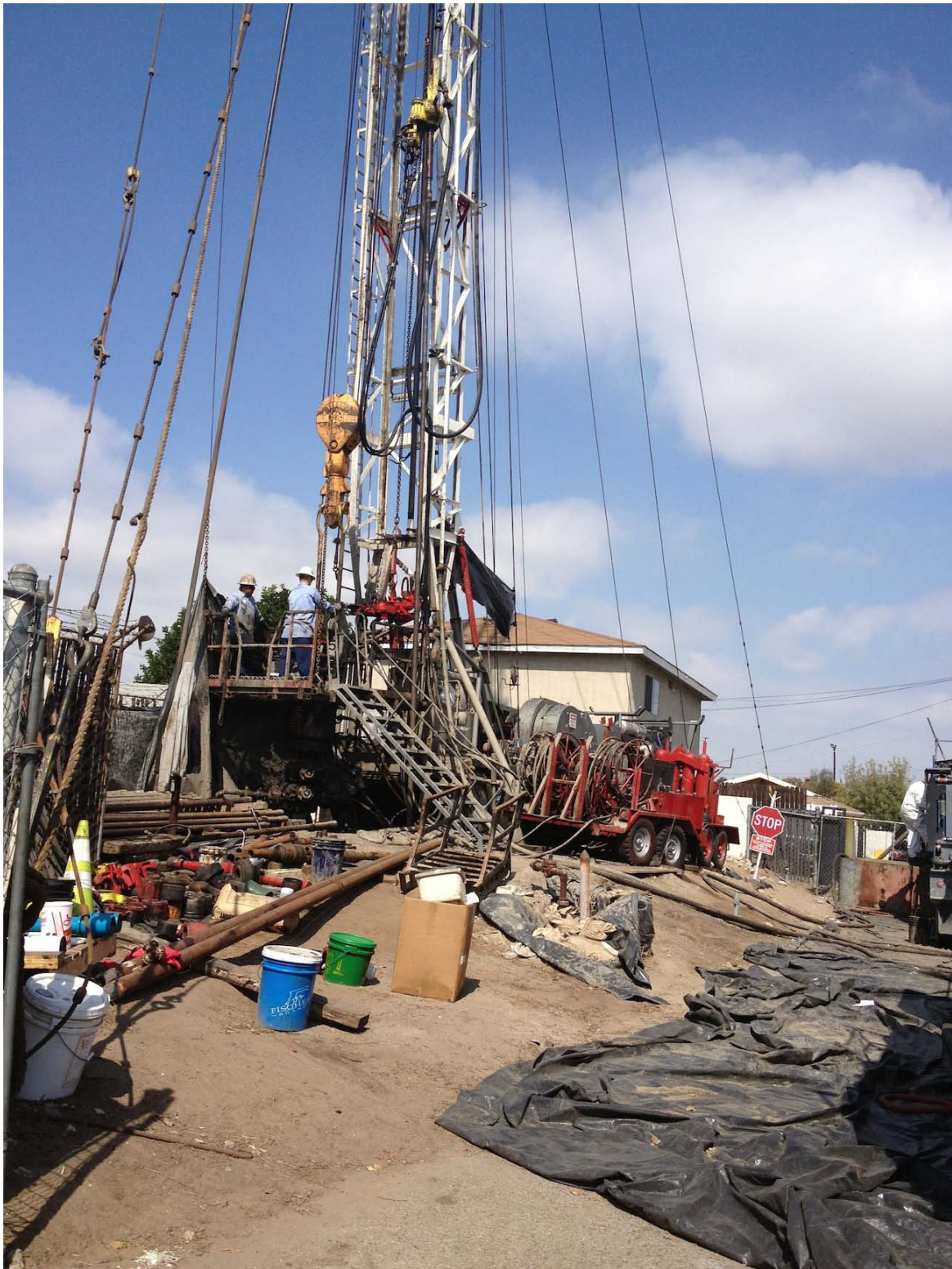


Figure 2: An industrial oil drilling rig adjacent to homes in Wilmington—a neighborhood in which the vast majority of residents are Latino.

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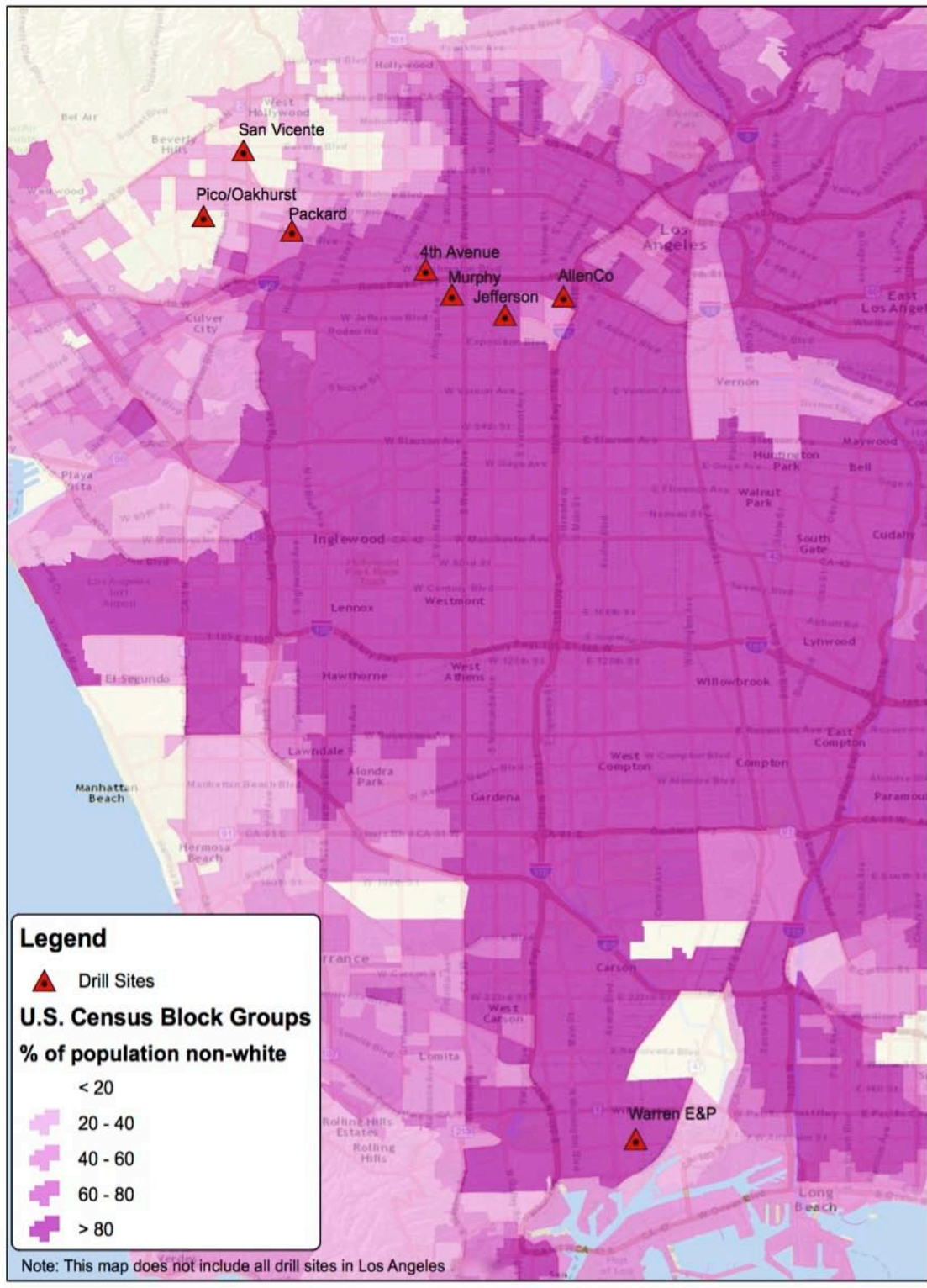


Figure 3: Map showing drill sites and neighborhood racial composition. Sites in neighborhoods in which the majority of residents are black and Latino are hundreds of feet closer to schools, playgrounds, and homes.

PARTIES

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2 5. Youth for Environmental Justice (Youth-EJ) is a youth-membership group of
3 Communities for a Better Environment, a California non-profit environmental health and justice
4 organization. Youth-EJ has hundreds of high-school and college-student members in Los Angeles,
5 with a large representation from Southeast Los Angeles and Wilmington. Since 1997, Youth-EJ has
6 been organizing young people in these communities around issues of environmental, racial, and
7 social justice. Through consciousness-raising, education, mobilization, and leadership development,
8 it is committed to empowering youth to take action to transform environmental health conditions
9 in predominantly low-income communities of color.
10

11 6. The majority of Youth-EJ members are Latino/a students who breathe, drink
12 municipal water, reside, go to school, work, and play in low-income communities of the City of
13 Los Angeles. Hundreds of Youth-EJ members engage every day in these basic human activities in
14 Wilmington, a particularly burdened neighborhood. In Wilmington, the City has granted three oil-
15 drilling corporate entities approvals for at least 550 oil-extraction wells.
16

17 7. Protecting the environment and enhancing public health are central goals of Youth-
18 EJ. The group has focused on advocacy around oil drilling as part of its efforts to reduce air, water,
19 and soil pollution, and minimize hazards in California’s urban areas.
20

21 8. South Central Youth Leadership Coalition is a grassroots youth group that grew
22 organically in response to, and in defense of, the health and safety of community members affected
23 by oil and natural gas extraction by the AllenCo Energy excavations in South Central Los Angeles.
24 SCYLC’s mission is to work collaboratively with all other youth and allies in advocating for the
25 environmental health, safety, and human rights of the South Central Los Angeles community.
26 SCYLC includes over a dozen youth members who are committed to organizing to improve the
27 livability and environmental health conditions of their community through consciousness raising,
28 education, mobilizing, and leadership development.

1 9. Youth members of SCYLC are majority Latino/a students who breathe, drink
2 municipal water, live, go to school, work, and play in the low-income Figueroa Corridor
3 neighborhood of South Central Los Angeles. SCYLC youth members engage in these fundamental
4 human and civil rights activities near oil drill sites in an area of South Los Angeles that is extremely
5 close to the two-acre drill site operated by AllenCo.

6 10. SCYLC actively participated in a neighborhood defense to put an end to AllenCo's
7 injurious toxic pollution in their community. For nearly four years, despite hundreds of complaints
8 from residents, children and other community members suffered from and continue to suffer from
9 dizziness, nausea, headaches, nosebleeds, chronic fatigue, respiratory illnesses, and other ailments
10 after they were exposed to AllenCo's drilling. Past advocacy by SCYLC has led to a successful
11 temporary shutdown of AllenCo's operations, but the youth members fear the reopening of the
12 AllenCo site, and continue to be concerned about the cumulative effects of toxic air emissions from
13 other nearby oil drill sites.

14 11. Center for Biological Diversity is a non-profit, public interest environmental
15 organization dedicated to the protection of the environment through science, policy, community
16 organizing, and law. The Center is committed to sustaining the diversity of the Earth's cultures,
17 languages, plants, and animals. In acting to protect and promote all of these forms of diversity, the
18 Center takes on the challenges of complex and far-reaching global crises such as extinction, climate
19 change, environmental justice, and cultural oppression.

20 12. The Center's Climate Law Institute works to reduce greenhouse gas and other air-
21 pollution emissions from oil and gas production and combustion. This focus stems from an
22 understanding that climate change resulting from society's emission of greenhouse gases is one of
23 the foremost threats to members' lives and well-being, along with those of their children,
24 grandchildren, and future generations. The Climate Law Institute recognizes that protecting our
25 children and future generations from the catastrophic effects of global warming requires a rapid
26 children and future generations from the catastrophic effects of global warming requires a rapid
27 children and future generations from the catastrophic effects of global warming requires a rapid
28 children and future generations from the catastrophic effects of global warming requires a rapid

1 transition away from reliance on fossil fuels to power both our lives and our economy and toward a
2 just, sustainable, and renewable energy system.

3 13. The Center has 50,000 members, including more than 11,000 members in
4 California. The Center's members and supporters include families in the City of Los Angeles who
5 have suffered and continue to suffer harm from fossil-fuel production and combustion. These
6 members are also concerned about the impacts of fossil-fuel production and combustion on climate
7 change, and on their children, grandchildren, and future generations. The Center's members,
8 supporters, and staff include families with children or grandchildren who live, breathe, go to
9 school, work, play, and otherwise exercise their human and civil rights in communities threatened
10 by the oil-drilling activities that the City of Los Angeles permits. They have suffered from and
11 continue to suffer from, and are concerned about, the impacts of oil extraction on their children
12 and grandchildren: the air they breathe, the water they drink, and the climate in which they live.

14 14. The City has failed to study and evaluate the consequences of oil drilling and
15 production, directly and adversely affecting the interests of the Center's members and supporters,
16 their children, and grandchildren, as well as those of all future generations. What is more, the
17 City's actions deprive the Center's members, their children, and future generations of their right to
18 live in a city free from racially discriminatory practices, forcing them instead to live in a city that is
19 less just and less healthy than it would otherwise be.

20 15. Youth-EJ, South Central Youth Leadership Coalition, and the Center have a
21 particular interest in ensuring that the City of Los Angeles protects their health and safety, and
22 promoting the conservation, environmental, aesthetic, and economic concerns of their
23 communities. The defendants' actions have exposed the plaintiffs and their communities to
24 unconscionable health and safety risks, and continue to threaten their well-being.

26 16. The plaintiffs have a right to, and a beneficial interest in, the City of Los Angeles'
27 performance of its legal duties under the California Environmental Quality Act (CEQA), codified at
28 California Public Resources Code §§ 21000 *et seq.*, and California's civil rights law, codified at

1 California Government Code §§ 11135 *et seq.* The City must faithfully apply CEQA's requirements
2 in reviewing applications by oil companies for conditional use plan approvals for oil extraction, re-
3 drilling, re-injection, and maintenance.

4 17. The plaintiffs suffered and continue to suffer from, and are concerned about, the
5 public health and safety risks posed by oil drilling in residential neighborhoods. The continued
6 permitting of a growing number of oil-extraction activities directly affects, and will continue to
7 harm, members of the plaintiff organizations who live, go to school, and play nearby. In this action,
8 the plaintiffs seek to protect and improve air and environmental quality, and prevent racial
9 discrimination. These interests are squarely within the purposes and goals of Youth-EJ, South
10 Central Youth Leadership Coalition, and the Center. The plaintiffs bring this action on behalf of
11 themselves, their members (specifically those residing near drill sites), and the general public. By
12 this action, the plaintiffs seek to protect the health, welfare, economic interests, and human and
13 civil rights of its members and the general public, and to enforce public duties that the City of Los
14 Angeles owes them.

16 18. Respondent and defendant City of Los Angeles is a local governmental agency and
17 political subdivision of the State of California charged with the authority to regulate and administer
18 land-use activities within its boundaries, subject at all times to the obligations and limitations of all
19 applicable state, federal, and other laws, including CEQA. Within its borders, the City has primary
20 responsibility for approving or denying the construction, drilling, re-drilling, and maintenance of
21 oil-extraction wells and their associated operations (such as gas burners), and is the lead agency
22 under CEQA for such purposes. It is in charge of approving or denying conditional use permits and
23 plan approvals and determining the conditions under which the kind of activities that are the subject
24 of this litigation may operate. As the lead agency, the City is responsible for determining the
25 appropriate level of CEQA environmental review, analysis, and documentation.

27 19. Respondent and defendant City of Los Angeles Department of City Planning is a
28 public agency of the City that is responsible for preparing, maintaining, and implementing a

1 body size, children receive higher doses of toxins and contaminants than adults. The intense
2 development that takes place during childhood also makes children more vulnerable to
3 environmental harms; they metabolize and excrete compounds differently, and their hormonal and
4 neural pathways are more susceptible to chemical interactions. And because children and teenagers
5 are also more likely than adults to spend time outside, they are not only more sensitive, but also
6 generally more exposed to drilling-related contaminants.

7
8 32. Residents who live near oil wells already bear the cumulative burden of several
9 types of general air pollution and other environmental stressors. For these citizens, the additional
10 emissions associated with oil and gas development compound the problems they face as a result of
11 the Los Angeles Basin’s already low air quality.¹

12 33. The children most vulnerable to the health hazards associated with oil drilling are
13 young people of color and those in low-income communities, who are already more likely to live in
14 neighborhoods facing a disproportionate share of environmental risk, as determined by California’s
15 Office of Environmental Health and Hazards Assessment. When considered in this environmental-
16 injustice context, the effects of oil drilling take on greater significance, compounding existing
17 inequities such as a lack of access to preventive care, medical treatment, and insurance coverage.

18 *A. Conventional oil drilling leads to adverse health effects*

19 34. Much of the public outrage over oil and gas production over the last few years has
20 focused on “well stimulation,” an extreme form of extraction, including “fracking” and “acidizing.”
21 But conventional drilling techniques—which the City routinely allows in residential areas—create
22 untenable health and safety risks. And the City has continued to permit oil drilling in
23 neighborhoods even though new extreme extraction methods are compounding the existing health
24 risks residents face.

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26
27 ¹ Seth Shonkoff & Donald Gautier, *A Case Study of the Petroleum Geological Potential and Potential Public Health*
28 *Risks Associated with Hydraulic Fracturing and Oil and Gas Development in The Los Angeles Basin*, in An
Independent Scientific Assessment of Well Stimulation in California, 199, 222 (2015),
<https://ccst.us/publications/2015/vol-III-chapter-4.pdf>.

1 35. Emissions from oil and gas development in the Los Angeles Region are associated
2 with traditional drilling, and are not unique to extreme extraction techniques.² An independent
3 analysis of “well stimulation” and conventional drilling in California concluded that “health
4 damaging air pollutant emissions are associated with indirect effects of oil and gas development in
5 general.”³ The report noted that “the [toxic air contaminants] . . . known to be emitted from oil
6 and gas development are not specific to stimulation fluids or stimulation processes.”⁴

7
8 36. Overall, “[r]esidents and sensitive receptors near oil and gas wells. . . may be more
9 exposed either acutely or chronically to [toxic air contaminants] emitted by oil and gas
10 development compared to the general population.”⁵ Because concentrations of these pollutants are
11 highest near the source, those who live near drill sites face the greatest risk of negative health
12 effects like respiratory disease and cancer.

13 37. For example, benzene, a known human carcinogen, naturally occurs in hydrocarbon
14 deposits and is released into the air through the conventional oil-development process. Residents of
15 surrounding areas risk health impacts from breathing in this chemical. Acute effects of benzene
16 inhalation include neurological symptoms such as drowsiness, vertigo, headaches; respiratory
17 effects such as bronchitis; and skin and eye irritation. Research shows that young people are more
18 likely to suffer after exposure to benzene and other toxins. Children exposed at an early age to
19 carcinogens or toxins may be more likely than adults who experienced similar conditions to
20 develop chronic diseases, including cancer.

21 38. Neighborhood drilling also creates more immediate safety hazards. Oil droplets
22 blow out over houses and yards, while neighbors face heightened fire risk and likelihood of
23 accidents during the transport of hazardous chemicals. Shaking during drilling has damaged the
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25
26 ² *Id.* at 212.

27 ³ *Id.* at 215.

28 ⁴ *Id.* at 214.

⁵ *Id.* at 219.

1 foundations of nearby homes. As they construct, maintain, and transport the products of these
2 wells, drilling companies also bring heavy diesel truck traffic—associated with carcinogenic
3 emissions—to residential areas.

4 39. The drilling process harms local residents’ quality of life. Heavy diesel engines
5 regularly raise up tall pipes onto uninsulated derricks, and then drive them into the ground. Those
6 who live in nearby neighborhoods must learn to deal with this shocking, deafening din.

7 40. Even if it occurs in “quiet mode” at night, drilling generates stressful noise and
8 ground vibrations that impact residents’ ability to sleep; degrade their ability to concentrate at
9 work and school; and can contribute to the development or aggravation of heart and circulatory
10 diseases, among other illnesses. Occupants of houses located near drill sites have lodged complaints
11 with the City objecting to the high-pitched sounds, steady drones, and rattling that can occur 24
12 hours a day.

13
14 ***B. New extreme extraction techniques compound existing risks***

15 41. Beyond conventional drilling methods and their negative effects, described above,
16 companies are employing new technologies to access previously inaccessible petroleum pockets in
17 Los Angeles neighborhoods. The extreme techniques used to extract this oil require voluminous
18 amounts of hundreds of hazardous chemicals, and thus exacerbate the risks to communities’ health
19 and safety.

20 42. For example, the process of acidizing requires the handling of acetic acid,
21 hydrochloric acid, and hydrofluoric acid—highly hazardous substances that are major threats to
22 public health and the environment (as documented in the South Coast Air Quality Management
23 District’s Rule 1148.2 Public Chemical Reports). Hydrofluoric acid is extremely dangerous, and
24 exposure can damage the skin, eyes and other sensory organs, respiratory system, gastrointestinal
25 system and liver, brain and nervous system, immune system, kidneys, cardiovascular system and
26 reproductive system.
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1 43. Acidizing involves trucking thousands of gallons of hydrofluoric acid through and
2 into residential neighborhoods. Tanker trucks bearing chemical placards for acid and corrosive
3 liquid arrive to drill sites and park next to people’s homes. While workers have been provided with
4 full-body protective gear, residents are exposed to dangers without choice. This acid can spill or
5 leak into the environment.

6 44. Another recovery technique known as “gravel packing” uses crystalline silica, a
7 known human lung carcinogen. Breathing crystalline silica dust can cause silicosis, which in severe
8 cases can be disabling, or even fatal.

9 45. These known hazardous chemicals—and others unknown due to trade secret
10 protection—can have a significant impact on residents and the environment, and expose the public
11 to significant dangers during both their use and transport through the City. A routine traffic
12 accident, work-place accident, or other release could expose untold numbers of people and the
13 environment to severe health and safety hazards.

14 46. Oil drilling in residential neighborhoods may result in significant, irreversible health
15 and environmental damage. The significant effects of heavily industrial, and inherently dangerous
16 oil operations in neighborhoods cannot be avoided or reduced to “acceptable” exposure or risk
17 levels. Oil drilling in residential neighborhoods violates plaintiffs’ right to inhabit a healthy living
18 environment.
19

20 ***C. Drilling particularly harms residents of Wilmington and South Los Angeles***
21 ***neighborhoods***

22 47. South Los Angeles and Wilmington are communities where people of color make
23 up the vast majority of the population. In these neighborhoods, the share of the population
24 identifying as Latino or African American ranges from 70 to over 90 percent. Residents of these
25 communities live, go to school, work, and play in buildings in close proximity to drilling sites and,
26 as a result, experience a myriad of health and environmental harms. In addition, these communities
27 are among the most vulnerable, as they are often linguistically isolated and are exposed to
28

1 significant cumulative impacts from a variety of toxic and polluted sources located in their
2 communities.

3 48. The community of Wilmington carries the largest drilling burden in all of Los
4 Angeles, and residents suffer from severe cumulative environmental impacts. Several companies
5 drill in Wilmington. The City has authorized one company alone, Warren E&P, to construct and
6 operate up to a staggering total of 540 wells. At least two other oil companies run drilling
7 operations in Wilmington. Residents have reported noxious odors, headaches, asthma, rashes,
8 burning eyes, ground vibrations, and stressful noise. Wells sit directly adjacent to a little league
9 baseball field, and across the street from homes, apartments, and other buildings where residents
10 work, study, play, and pray. Wilmington ranks in the top 5% of communities with the highest
11 pollution exposure and social vulnerability in the state. The cancer risk in Wilmington is among the
12 highest in Southern California.

14 49. There are currently 11 active wells (out of 21 existing wells) at South Los Angeles's
15 AllenCo drill site. Just 100 feet separate these wells from a multi-unit residential housing
16 development and a high school for developmentally disabled youth. For years, residents living near
17 this site have complained of headaches, nosebleeds, nausea, and respiratory ailments during drilling.

18 50. At ten years old, a minor resident experienced severe illness after exposure to
19 AllenCo's drilling. She developed acute asthma, nosebleeds, intense stomachaches and headaches,
20 irregular heart palpitations, and severe body spasms. The minor was forced to make regular
21 emergency room visits and appointments with medical specialists.

22 51. In November 2013, in response to hundreds of community residents' complaints,
23 the U.S. Environmental Protection Agency conducted an investigative site visit. After even this
24 short visit, investigators experienced sore throats, headaches, and coughing. The EPA charged
25 AllenCo with discharging hazardous substances, failing to maintain safe operations, and putting
26 residents' health and safety at risk. Although residents' health symptoms diminished once AllenCo
27 temporarily halted productions at the end of 2013, occasional odors continue to burden the
28

1 community. The oil company is in the process of updating plans and equipment in an effort to meet
2 minimum requirements and resume drilling.

3 52. With 34 active wells, some only 60 feet from homes, the Jefferson site is closer to
4 sensitive locations than any other drill site in the City. The 1.86-acre operation is immediately
5 adjacent to several homes. Although surrounding population density has increased over time, the
6 City has allowed the operator to work under progressively weaker conditions. The Planning
7 Department's 1965 decision establishing this drill site—noting its proximity to a dense residential
8 neighborhood—required two immediately adjoining lots to be maintained as buffers between the
9 oil production and residential buildings. Years later, it granted the oil company's request to remove
10 that requirement. People now live in those former buffer properties. Residents complain of blight,
11 truck traffic, fumes, and health impacts similar to those described above.

13 53. Drilling at the Murphy drill site, which includes around 34 wells, occurs less than
14 100 feet from a clinic for HIV patients and within a couple hundred feet of apartments and senior-
15 citizen housing. One building next to the site includes 192 apartments and a children's playground.
16 Those who live nearby must keep their windows constantly closed just to keep out noise and
17 fumes. Neighbors have lodged numerous complaints over the years concerning noxious odors,
18 noise, and pollution.

19 **II. How the City's rubber stamping of oil drilling applications evades meaningful**
20 **analysis of environmental health and safety effects**

21 54. Before drilling, companies are required to obtain approval and permits from the
22 City. Municipal Code § 13.01(I), (H). They must first file an application to approve the creation of
23 a "drill site" (within an oil district already established by City ordinance) with the Zoning
24 Administrator or Area Planning Commission. This initial establishment of a drill site does not in
25 itself permit oil companies to drill and operate wells.

27 55. The Los Angeles Municipal Code states that "[n]o person shall drill, deepen or
28 maintain an oil well or convert an oil well from one class to the other and no permits shall be issued

1 for that use, until a determination has been made by the Zoning Administrator or Area Planning
2 Commission[.]” Municipal Code § 13.01(I).

3 56. The Municipal Code requires would-be operators to submit a formal application
4 that includes “a determination of the conditions under which the operations may be conducted.”

5 57. The Zoning Administrator makes a discretionary decision whether to grant or deny
6 an application under Municipal Code section 12.24, which governs “Conditional Use Permits and
7 Other Similar Quasi-Judicial Approvals.” If the application is approved, the Planning Department
8 issues a decision of “Approval of Plans – Determination of Methods and Conditions” (“Plan
9 Approval”).

10 58. The Zoning Administrator must set out appropriate conditions or limitations for
11 drilling at the time of approval. Municipal Code § 13.01(H). The Zoning Administrator may later
12 “impose additional conditions or require corrective measures . . . necessary to afford greater
13 protection to surrounding property.” *Id.* § 13.01(E)(2)(i).

14 59. The Planning Department asserts that section 13.01 of the Municipal Code has
15 “little to do with land use compatibility or potential noxious emissions.”⁶

16
17 ***A. The City fails to follow the procedure laid out in the City’s Municipal Code***
18 ***and ignores its planning responsibilities***

19 60. The City does not have a recordkeeping system of all oil and gas activity, permits,
20 and the subsequent conditions of approval that it sets for each drill site. As a result, the defendants
21 cannot comprehensively track approvals or enforce the conditions they have imposed on these
22 operators.

23 61. The City and Planning Department do not require a public hearing, with
24 notification to all concerned parties, including neighboring residents or businesses, as part of their
25 process to review applications and determine requirements for operators. In the past, the Planning
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⁶ Letter from Planning Dept. to City Council Re: Regulatory Controls Over Well Stimulation, dated Nov.
5, 2014, at 6 (“Planning Dept. Nov. 2014 Letter”).

1 Department has made arbitrary and capricious decisions whether to hold a public hearing or
2 whether to notify nearby residents when an applicant seeks to drill, re-drill, or convert wells.

3 62. The Planning Department provides that “[a]s long as the applicant is in compliance
4 with the authorized activities identified under prior plan approvals or conditions, an administrative
5 review process is granted without a public hearing[.]”⁷ For example: On April 22, 2008, the
6 Planning Department failed to hold a public hearing before approving the re-drilling of one well at
7 the Jefferson drill site, located in a residential neighborhood on Jefferson Boulevard between Van
8 Buren Place and Budlong Avenue.

9 63. In addition, the Planning Department has a policy and practice of circumventing the
10 public notice and hearing process through its informal review of applications to modify or remove
11 conditions. Regardless of whether these conditions were originally imposed after public notice and
12 hearing, the Planning Department allows operators to go through an abbreviated “review of
13 conditions” or “review of plans” process.⁸ For example:

- 15 • On or around September 2007, the Planning Department approved the drilling of 12
16 new wells at the Murphy drill site, located at 2126 West Adams Blvd. At the time, the
17 applicant submitted plans to drill only three wells, stating that it would submit for
18 approval details for the remaining nine at an undetermined future date. The Planning
19 Department approved all 12 wells anyway and issued methods and conditions. Though
20 the Department noted that it could adjust these conditions when the company applied
21 with specific plans for the remaining wells, the department also stated that these later
22 approvals could happen without a public hearing. Between December 2007 and
23 December 2013, the Department then issued four approvals to the oil company without
24 giving public notice or holding hearings. These approvals modified the methods and
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28 ⁷ Planning Dept. Nov. 2014 Letter at 6.

⁸ ZA Memorandum No. 94 (Dec. 2, 1994) and ZA Memorandum No. 94A (Mar. 24, 2000).

1 conditions for additional wells, authorized construction and operation of up to the
2 remaining nine wells, and allowed the expansion of related gas operations at the site.

3 ***B. The City circumvents CEQA through its pattern and practice of invoking***
4 ***categorical exemptions without required review***

5 64. The City and its Planning Department routinely evade public and environmental
6 scrutiny when, as a matter of course, they invoke CEQA categorical exemptions in their approval
7 of drilling applications. The City’s pattern and practice of invoking an exemption and then rubber-
8 stamping drilling applications circumvents CEQA. The result is continued and growing extraction
9 in residential neighborhoods, with serious environmental and health ramifications for nearby
10 residents.

11 65. Rather than undertake the required preliminary review analysis on a case-by-case
12 basis to determine whether an application for a plan approval is subject to environmental review
13 under CEQA and what level of environmental review is warranted, the Planning Department’s
14 pattern and practice treats drilling activities as exempt from CEQA across the board. The City
15 states that “most plan approvals” issued by the Planning Department “have previously qualified for
16 categorical exemptions . . . under the basis of there being no change in land use.”⁹ So long as the
17 applicant is in compliance with prior plan approvals or conditions, the City has explained, “an
18 administrative process is granted without a[n] . . . EIR [environmental impact review] process.”¹⁰

19 66. The City and Planning Department categorically exempt oil-drilling projects from
20 CEQA, despite the City’s own past findings that drilling may create significant environmental
21 impacts. Indeed, the City’s rare decision to require environmental review under CEQA stands out
22 for its capricious manner and racially disparate impact. Upon information and belief, the City has
23 only ever required an environmental impact review (EIR) for oil drilling once—at a site where the
24 surrounding population was largely white. And crucially, the environmental review concerned a
25
26

27 _____
⁹ Planning Dept. Nov. 2014 Letter at 6.

28 ¹⁰ *Id.*

1 potential project that would serve to *improve rather than degrade* environmental conditions. In or
2 around 1998 and 1999, the City conducted an EIR concerning a proposed project at the Pico and
3 Oakhurst drill site to replace a diesel-powered rig with an electric-powered rig. Though this change
4 lowers air pollution, defendants nonetheless conceded in their review that possible significant
5 environmental impacts from general “drilling activities” identified in its initial study included:

- 6 • Deterioration of air quality due to odor generated during drilling activities, and
7 quantifiable increases in air emissions and deterioration of ambient air quality;
- 8 • Possible ground water contamination and an increase in contaminated surface runoff;
- 9 • Risk of fire from highly flammable materials;
- 10 • Long-term exposure of adjacent residents to potentially toxic air emissions;
- 11 • Noise impacts from construction;
- 12 • Increased local traffic;
- 13 • Increased light and glare from project site, and
- 14 • Impacts on aesthetics and views from adjacent residential areas.

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16
17 67. Despite the recognized and well-documented impacts of oil drilling, the Planning
18 Department has a policy, pattern, or practice of issuing Notices of Exemption for drilling activities,
19 and determining that the extraction activities do not have a significant effect on the environment
20 and are therefore exempt from the provisions of CEQA. Defendants’ determinations regularly rely
21 on Class 5, category 23 and Class 1 exemptions of the City’s CEQA Guidelines, based on minor or
22 negligible changes in land use.

23 68. Class 5, category 23 of the City’s CEQA guidelines “consists of minor alterations in
24 land use limitations in areas with less than a 20% slope, which do not result in any changes in land
25 use or density, including but not limited to . . . [g]ranting or renewal of a variance or conditional
26 use for a non-significant change of use of land.” City CEQA Guidelines, Art. III, § 1(e)(23).
27
28

1 69. Class 1 of the City’s CEQA guidelines is for “existing facilities,” and “consists of the
2 operation, repair, maintenance or minor alteration of existing public or private structures,
3 facilities, mechanical equipment, or topographical features, involving negligible or no expansion of
4 use beyond that previously existing.” City CEQA Guidelines, Art. III, §1(a).

5 70. When companies seek authorization for specific drilling activities, they usually
6 submit a proposed Notice of Exemption along with their application. The applicant typically
7 includes a brief sentence summarizing the proposed project and indicates which exemption
8 supposedly applies to the project. Summarily relying on applicants’ proposed exemption
9 determinations, the Department perfunctorily adopts them—without assessing the project’s
10 possible environmental effects or examining the merits of the categorical exemptions or applicable
11 exceptions.

12 71. The Planning Department has a pattern and practice of signing off on applicants’
13 proposed Notices of Exemption and directly presenting them as the Department’s CEQA
14 determinations. After approving an application, the Planning Department usually sends a letter to
15 the operator indicating the approval and notifying the applicant that it must file the CEQA Notice
16 of Exemption with the Los Angeles County Clerk on behalf of the Lead Agency, the City of Los
17 Angeles Planning Department.¹¹

18 72. For instance, on July 9, 2013, an oil operator filed an application seeking
19 authorization to drill and re-drill three wells, and submitted a proposed Notice of Exemption. The
20 Planning Department signed the Notice of Exemption, finding that the proposed exemption applied
21 to the project, only three weeks later, even though it did not hold a public hearing, and therefore
22 did not take testimony and receive evidence, until September 24, 2013. Further, the Notice of
23 Exemption signed by the Planning Department contained the name and address of the wrong drill
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28 ¹¹ *E.g.*, L.A. Dept. City Planning (Feb. 21, 2001) *Letter Re: Filing notice of Determination/Notice of Exemption*,
Case No. ZA 18129 (PAD).

1 site, clearly indicating that the Planning Department mechanically signed off on the applicant's
2 proposed exemption.

3 73. Defendants' records show a pattern and practice of a perfunctory approval and
4 exemption process. Over many years, the Planning Department has approved numerous drilling
5 project applications—ranging from one to twelve wells—after issuing Notices of Exemption, most
6 under Categorical Exemption Class 5, Category 23 of the City CEQA guidelines. A few recent
7 examples include:

8 74. In or around August 2014, the Planning Department approved the re-drilling of
9 three Class A oil wells at the San Vicente site. The Department found the project exempt from
10 CEQA under Class 5, Category 23 of the City CEQA Guidelines, stating that the project would not
11 have a significant effect on the environment. The City reached this determination even after
12 residents lodged complaints, both in writing and at a public hearing, concerning the health effects
13 of oil drilling in their neighborhood. They expressed concerns over the presence of benzene, diesel
14 exhaust, and carcinogens, as well as the larger relationship between oil wells and incidences of
15 cancer, including leukemia, in children living near wells.

17 75. In or around April 2013, the Planning Department approved the drilling of four
18 new wells at the Murphy drill site. Based on information and belief, the Department did not make
19 an exemption determination and did not complete any CEQA review at that time.

20 76. On June 18, 2013, an oil operator applied to drill one new well and re-drill two
21 injection wells at the Jefferson drill site. The Planning Department made an exemption
22 determination on September 13, 2013, based on Class 5, Category 23 of the City CEQA
23 Guidelines. Through subsequent correspondence and a public hearing, residents expressed
24 concerns and complaints concerning blight, heavy truck traffic, the surrounding façade's failure to
25 obstruct drilling equipment, and detectable oil fumes. Because of notice-requirement deficiencies,
26 the zoning administrator decided that the matter would be rescheduled.

1 77. The applicant amended its June 18, 2013 application the following summer. In its
2 notice announcing a public hearing scheduled for November 25, 2014, the Department stated that
3 it had already determined that drilling a new injection well and re-drilling two oil-extraction wells
4 would “not [] have a significant effect on the environment and [] shall therefore be exempt from the
5 provisions of CEQA.” The public then provided extensive comments, both in writing and at the
6 public hearing, concerning numerous potential health, safety, and environmental impacts.
7 Residents brought up concerns about the release of a hazardous oil mist onto neighboring
8 properties, substantial noise from well-pulling activities, odors, hazardous-materials truck traffic,
9 inadequate wall height, and transportation and use of dangerous chemicals.
10

11 78. On January 23, 2015, the applicant withdrew its expansion application to expand
12 production. The applicant may seek the same or similar drilling approval in the future, and the City
13 maintained its categorical exemption determination throughout its review process.

14 **III. How the City creates racially discriminatory effects when it places conditions**
15 **on drill operators**

16 79. The City and its Planning Department each receive financial assistance from the
17 State of California in an amount in excess of \$10,000 in aggregate per state fiscal year by grant,
18 contract, or otherwise. They are therefore subject to the antidiscrimination mandates of
19 Government Code section 11135.

20 80. The Wilmington (Warren E&P) and South Los Angeles (Jefferson, Fourth Ave.,
21 Murphy, and AllenCo) drill sites are surrounded by neighborhoods where a vast majority of the
22 residents identify as Latino and black, and only a small percentage identify as white.

23 81. The South Los Angeles and Wilmington sites are surrounded by census tracts that
24 the California Environmental Protection Agency, through its CalEnviroScreen tool and underlying
25 data,¹² has identified as communities disproportionately impacted by environmental burdens.
26

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¹² Available at: <http://oehha.ca.gov/ej/ces2.html>.

1 82. The South Los Angeles and Wilmington sites are on average hundreds of feet closer
2 to sensitive uses than oil sites in the West Los Angeles and Wilshire areas.

3 83. The Packard, San Vicente, and Pico and Oakhurst drill sites are surrounded by
4 neighborhoods where between nearly 40 and 80 percent of the residents identify as white. EPA's
5 CalEnviroScreen tool does not identify these communities as bearing disproportionate
6 environmental burdens.

7 84. The City and Planning Department exhibit a pattern and practice of developing and
8 approving weaker conditions for drill sites in communities where a vast majority of the residents
9 identify as Latino and black. It requires far more stringent environmental conditions in similarly
10 situated communities where a significant percentage of residents identify as white, leading to an
11 unlawful, racially discriminatory impact in violation of Government Code section 11135. These
12 conditions include, but are not limited to those described below.

13 85. Based on information and belief, the Planning Department imposes operating
14 conditions on South Los Angeles and Wilmington drill sites in close proximity to residences and
15 playgrounds that allow oil companies to use *diesel*-powered drilling rigs to create, operate, and
16 maintain drilling wells.

17 86. Based on information and belief, the Planning Department requires *electric*-powered
18 drilling rigs at Westside- and Wilshire-area drill sites in close proximity to residences and
19 playgrounds.

20 87. Diesel combustion is a major source of toxic air contaminants from drilling. Diesel
21 exhaust consists of gaseous and particulate emissions collectively referred to as diesel particulate
22 matter (DPM). Diesel rigs generally have several engines that operate for the duration of a drilling
23 event. Large drill events can especially pose a significant health risk, including cancer, to those
24 nearby. For example, gravel-packing events can last up to about 400 hours. While DPM is released
25 throughout the production of a well, the construction phase usually poses the most danger.
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1 88. Electric rigs release far less particulate matter and other emissions than diesel rigs,
2 and requiring their use makes a significant difference to air quality. The defendants’ environmental
3 impact analysis conducted for the Pico and Oakhurst drill site in and around 1998 and 1999 found
4 that eliminating exhaust from the diesel-powered rig would significantly decrease toxic air
5 contaminants and odorous emissions.

6 89. Electric rigs also produce less noise than diesel-powered rigs. In at least one Plan
7 Approval at the Packard drill site—in the Wilshire community—defendants ordered that, to
8 reduce noise, only electric power generated off-site could be used for drilling.

9 90. Defendants also ordered the Packard-site oil company to replace the windows for
10 nearby homeowners, and provide them with double-paned windows that would reduce noise
11 pollution and stress on surrounding neighbors.

12 91. Based on information and belief, defendants have not ordered oil companies
13 operating at the South Los Angeles or Wilmington sites to provide homeowners with double-paned
14 windows to reduce noise pollution and stress.

15 92. Based on information and belief, the Planning Department has allowed drilling
16 companies operating near homes and playgrounds in South Los Angeles and Wilmington to use 30-
17 foot sound walls around only three sides of the derricks, with acoustical blankets on the exterior of
18 the rig floor.

19 93. Based on information and belief, the Planning Department has required companies
20 operating near homes and playgrounds in Westside and Wilshire to fully enclose derricks within an
21 acoustically treated, sound proof structure.

22 94. Defendants previously found that fully enclosed derricks have a “chimney effect”
23 that increase the dispersion of VOCs and odors, thereby reducing air quality impacts on
24 surrounding residents.

25 95. Environmental noise pollution is a form of air pollution that directly affects the
26 health and well-being of individuals and communities. Studies have shown that noise pollution
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28

1 associated with oil operations can lead to hearing impairment, stress and anxiety, lack of sleep (and
2 loss of concentration at school and work), endocrine problems, and effects on cardiovascular and
3 mental health.

4 96. Based on information and belief, the Planning Department has required walls of
5 only between six and 12 feet around South Los Angeles and Wilmington drill sites.

6 97. Based on information and belief, the Planning Department has required walls of
7 between 12 and 25 feet around Westside and Wilshire area drill sites.

8 98. Higher walls help alleviate the effects of the glare of bright night-time floodlights,
9 which can inhibit sleep and focus; decrease noise impacts; and block dust emissions that can blanket
10 nearby homes and yards. Additionally, they provide aesthetic benefits by hiding the drill rigs, large
11 oil-storage tanks, well pumps, and other industrial machinery that loom large over the homes.

12 99. Based on information and belief, the Planning Department has allowed more lenient
13 truck delivery schedules—with longer hours into the night and on more days of the week—for
14 operators at the South Los Angeles and Wilmington drill sites, compared to the constraints
15 required at the Westside and Wilshire drill sites.

16 100. Truck traffic causes harm to nearby residents from diesel air emissions that cause or
17 contribute to respiratory ailments, cancer, and other illnesses and health risks. It also increases
18 congestion and the risk of accidents, especially at night when visibility is reduced. Truck traffic
19 associated with oil and gas operations also contributes significantly to noise pollution as well as
20 stress and anxiety.

21 101. Based on information and belief, the Planning Department takes greater note and
22 places a higher value on the overall aesthetics of the Westside and Wilshire drill sites. On such
23 basis, it places stricter conditions on those sites than on South Los Angeles and Wilmington drill
24 sites. At Westside and Wilshire sites with residences in close proximity, the structures enclosing
25 derricks must have “the appearance of a high-rise building.” The “design and appearance”
26 requirements outline that “the facades of the derrick structure shall include architectural features
27
28

1 105. CEQA’s provisions “apply to discretionary projects proposed to be carried out or
2 approved by public agencies, including, but not limited to, . . . the issuance of conditional use
3 permits, . . . unless the project is exempt from this division.” Pub. Res. Code § 21080(a).

4 106. Public agencies are prohibited from approving projects that would result in one or
5 more significant effects on the environment unless changes or alterations to the project will
6 altogether avoid their significant effects, or reduce them to a level of insignificance. Pub. Res. Code
7 §§ 21081, 21002.

8 107. Thus, CEQA establishes both procedural obligations to analyze and make public
9 adverse physical environmental effects, and a substantive obligation to mitigate significant impacts
10 or deny a project.

11 108. “‘Significant effect on the environment’ means a substantial, or potentially
12 substantial, adverse change in the environment.” Pub. Res. Code § 21068.

13 109. Under CEQA, the “lead agency” is “the public agency which has the principal
14 responsibility for carrying out or approving a project which may have a significant effect upon the
15 environment.” Pub. Res. Code § 21067. The lead agency is responsible for preparing the
16 appropriate CEQA documents. CEQA Guidelines § 15051.

17 110. When a project carries “unavoidable environmental risks,” the lead agency must
18 “balance [them against] the economic, legal, social, technological, or other benefits.” Cal. Code
19 Regs. tit. 14, § 15093(a).

20 111. In permitting oil drilling activities within the City of Los Angeles, the City acts as
21 the lead agency. The City and Planning Department have mandatory, nondiscretionary duties to
22 comply with the statutory and regulatory requirements of CEQA. Pub. Res. Code §§ 21080(a);
23 CEQA Guidelines § 15000 *et seq.*

24 112. The City’s CEQA Guidelines may not conflict with the State CEQA Guidelines.
25 CEQA Guidelines §§ 15300.4, 15061(c).

1 113. Defendants have failed to proceed in the manner required by law in reviewing,
2 processing, and approving drilling applications. Rather, defendants' practice and pattern in the
3 manner in which they approve applications systematically violates CEQA.

4 114. Approval of drill sites in residential neighborhoods violates one of CEQA's
5 fundamental purposes, which is to prevent environmental damage, while providing a decent home
6 and satisfying living environment for every Californian. Pub. Res. Code §§ 21001(d); 21000(g).

7 115. CEQA and its implementing regulations, including the Guidelines issued by the
8 State Resources Agency, establish a three-tiered process with which public agencies acting on a
9 project approval must comply.

10
11 **A. Preliminary Review & Exemptions**

12 116. First, a lead agency must conduct a preliminary review to determine whether the
13 application before the agency consists of a "project" subject to CEQA, as defined in section 15378
14 of the CEQA Guidelines.

15 117. If the application falls under the definition of a "project," the lead agency must
16 determine whether the project is exempt from CEQA by statute or under a categorical exemption,
17 and that "application of that categorical exemption is not barred by one of the exceptions[.]" CEQA
18 Guidelines § 15061. Lead agencies may be relieved of CEQA's environmental review mandates
19 only if a project falls squarely within a permitted exemption, and no exceptions apply.

20 118. There are thirty-three classes of projects that qualify for categorical exemptions,
21 detailed in the CEQA Guidelines. CEQA Guidelines §§ 15300-15333; *see* Pub. Res. Code §§
22 21080(b)(9), 21084(a). These are classes of projects that the Secretary of Resources has
23 determined "do not have a significant effect on the environment," and are therefore "categorically
24 exempt" from CEQA's environmental review document requirements. *Id.*

25 119. "Only those projects having no significant effect on the environment are
26 categorically exempt from CEQA review[.]" *S.F. Beautiful v. City & Cty. of S.F.* (2014) 226 Cal.
27 App. 4th 1012, 1032.
28

1 120. The “exemption categories” must be construed narrowly and “are not to be
2 expanded or broadened beyond the reasonable scope of their statutory language[.]” *Santa Monica*
3 *Chamber of Commerce v. City of Santa Monica* (2002) 101 Cal. App. 4th 786, 792.

4 121. An agency invoking a categorical exemption must “consider the issue of significant
5 effects . . . in determining whether the project is exempt from CEQA where there is some
6 information or evidence in the record that the project might have a significant environmental
7 effect.” *Berkeley Hillside Pres. v. City of Berkeley* (2015) 60 Cal. 4th 1086, 1103, *as modified* (May 27,
8 2015).

9 122. Lead agencies may not “attempt to use limited exemptions contained in CEQA as a
10 means to subvert rules regulating the protection of the environment.” *Castaic Lake Water Agency v.*
11 *City of Santa Clarita* (1995) 41 Cal. App. 4th 1257, 1268.

12 **B. Exceptions to Exemptions**

13 123. The lead agency must ensure that any applicable “categorical exemption is not
14 barred by [any] exception[.]” CEQA Guidelines §§ 15061(b)(2), 15300.2.

15 124. A lead agency may not issue a categorical exemption, but must instead find “that a
16 project may have a significant effect on the environment[.]” when the project has possible
17 environmental effects that are individually limited, but cumulatively considerable. Pub. Res. Code
18 § 21083(b)(2); CEQA Guidelines §§ 15065(a)(3), 15130, 15300.2(b).

19 125. “All exemptions . . . are inapplicable when the cumulative impact of successive
20 projects of the same type in the same place, over time is significant.” CEQA Guidelines §§
21 15300.2(b).

22 126. Further, a “categorical exemption shall not be used for an activity where there is a
23 reasonable possibility that the activity will have a significant effect on the environment due to
24 unusual circumstances.” CEQA Guidelines § 15300.2(c)

25 127. If the agency decides that an exemption is applicable, and no exception applies, then
26 no further review is necessary. The agency may prepare and file a notice of exemption, including
27
28

1 citation to the applicable exemption and a brief “statement of reasons to support the finding.”
2 CEQA Guidelines §§ 15061(d), 15062(a)(4), 15002(k).

3 **C. Initial Study**

4 128. If a project does not fall within any exemption, “[f]ollowing preliminary review, the
5 lead agency shall conduct an initial study to determine if the project may have a significant effect on
6 the environment.” CEQA Guidelines § 15063(a).

7 129. If substantial evidence is produced or presented during the initial study supporting a
8 fair argument that the proposed project *may* have a significant effect on the environment, the lead
9 agency shall prepare an EIR. CEQA Guidelines § 15064(f)(1).

10 130. The lead agency shall consider whether the cumulative impact is significant and
11 whether the effects of the project are cumulatively considerable. An EIR must be prepared if the
12 cumulative impact may be significant and the project’s incremental effect, though individually
13 limited, is cumulatively considerable. CEQA Guidelines § 15064 (h)(1).

14 **D. Environmental Impact Report**

15 131. The third tier of the CEQA process is to prepare a full environmental impact report
16 (EIR) on the proposed project. Pub. Res. Code, §§ 21100, 21151; CEQA Guidelines, §§ 15063
17 (b)(1), 15080.

18 132. The EIR must identify feasible alternatives, and evaluate and avoid or mitigate
19 significant impacts below a threshold of significance. Pub. Res. Code §§ 21002, 21002.1, 21061,
20 21081(a); CEQA Guidelines §§ 15021, 15091, 15126.4, 15126.6.

21 133. The EIR requirement is the heart of CEQA, and serves to demonstrate to an
22 apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological
23 implications of its action.

24 134. CEQA must be interpreted in such a manner as to afford the fullest possible
25 protection to the environment within the reasonable scope of the statutory language. CEQA
26 Guidelines § 15003 (a)-(f).
27
28

1 **II. California’s Civil Rights Law, Section 11135 of the Government Code**

2 **A. Environmental Justice**

3 135. Environmental justice is “the fair treatment of people of all races, cultures, and
4 incomes with respect to the development, adoption, implementation, and enforcement of
5 environmental laws, regulations and policies.” Gov’t. Code § 65040.12 (2013). “Fairness” in this
6 context means that everyone is entitled the benefits of a healthy environment and that the “burdens
7 of pollution should not be focused on sensitive populations or on communities that are already
8 experiencing its adverse effects.”¹³

9
10 136. California has undertaken robust approaches to address issues of environmental
11 injustice by passing environmental justice legislation and institutionalizing various policy reforms.¹⁴
12 Notably, California was one of the first states to codify environmental justice through a statute.¹⁵

13 **B. Section 11135**

14 137. California Government Code section 11135, enacted in 1977, is California’s civil
15 rights analogue to Title VI of the Federal Civil Rights Act. Section 11135 states that:

16 “[n]o person in the State of California shall, on the basis of race, national origin,
17 ethnic group identification, religion, age, sex, sexual orientation, color, genetic
18 information, or disability be unlawfully denied full and equal access to the benefits
19 of, or be unlawfully subjected to discrimination under, any program or activity that
20 . . . is funded directly by the state, or receives any financial assistance from the
21 state[.]”

22 Gov. Code. § 11135(a).

23 138. Section 11135’s implementing regulations further define discriminatory practices
24 prohibited by the statute. Section 98101 of the regulations states that “[i]t is a discriminatory

25 ¹³ Cal. Dep’t. of Justice, Office of the Att’y Gen., Environmental Justice at the Local and Regional Level:
26 Legal Background (“AG Fact Sheet”), 1 (last updated July 10,
27 2012),http://oag.ca.gov/sites/all/files/agweb/pdfs/environment/ej_fact_sheet.pdf.

28 ¹⁴ See Jonathan K. London, Julie Sze, & Raoul S. Lievanos, *Problems, Promise, Progress, and Perils: Critical
Reflections on Environmental Justice Policy Implementation in California*, 26 UCLA J. Envtl. L. & Pol’y 255, 256
(2008).

¹⁵ Environmental Justice Program, Cal. Envtl. Protect. Agency, <http://www.calepa.ca.gov/EnvJustice/>
(last updated Apr. 14, 2015).

1 practice for a recipient, in carrying out any program or activity directly, or through . . . other
2 arrangements . . . to utilize criteria or methods of administration that . . . have the purpose or
3 effect of subjecting a person to discrimination on the basis of ethnic group identification[.]” 22 Cal.
4 Code Regs. § 98101 (i)(1).

5 139. “Program or activity” is defined “as any project, action or procedure undertaken
6 directly by recipients of State support or indirectly by recipients through others by contracts,
7 arrangements or agreements, with respect to the public generally or with respect to any private or
8 public entity.” 22 Cal. Code Regs. § 98010.

9 140. “Recipient” is defined as “any contractor, local agency, or person, who regularly
10 employs five or more persons and who receives State support . . . in an amount in excess of
11 \$10,000 in the aggregate per State fiscal year or in an amount in excess of \$1000 per transaction,
12 by grant, contract or otherwise, directly or through another recipient[.]” *Id.*

13 141. Section 11139 provides a private right of action to enforce section 11135, stating:
14 “This article and regulations adopted pursuant to this article may be enforced by a civil action for
15 equitable relief, which shall be independent of any other rights and remedies.” Gov. Code § 11139.

16 142. Section 11139 also prohibits the statute from being “interpreted in a manner that
17 would frustrate its purpose.” *Id.*

18
19 **FIRST CAUSE OF ACTION**
20 **(CCP §§ 1060, 1085, Violation of CEQA - Pattern and Practice of**
21 **Failure to Apply CEQA)**

22 143. Petitioners incorporate herein by reference the allegations contained in the
23 foregoing paragraphs.

24 144. An action for declaratory relief under California Code of Civil Procedure section
25 1060 “is an appropriate means of challenging an alleged overarching policy or practice of an agency
26 where there is an actual and present controversy over the policy [or practice].” *K.G. v. Meredith*
27 (2012) 204 Cal.App.4th 164, 177.
28

1 145. Petitioners are informed and believe, and thereupon allege, that the defendants have
2 engaged in a pattern and practice of issuing plan approvals to drill, re-drill, deepen or maintain an
3 oil well, convert an oil well from one class to the other, and conduct associated oil operations, in a
4 manner that disregards and contravenes CEQA's mandates.

5 146. Petitioners are informed and believe, and thereupon allege, that the defendants have
6 a pattern and practice of applying categorical exemptions to such applications as a matter of course,
7 and without undertaking the required preliminary review required for each and every separate
8 application filed with the Planning Department.

9 147. Petitioners are informed and believe, and thereupon allege, that defendants have a
10 pattern and practice of disregarding CEQA's mandate requiring lead agencies to consider whether
11 an exception bars application of an exemption.

12 148. The City and Planning Department's pattern and practice of illegally relying on
13 categorical exemptions to permit oil-extraction activities result in repeated and systematic
14 violations of CEQA's mandates to analyze all projects that may have a significant impact on the
15 environment, as described above. Pub. Res. Code §§ 21080(c), (d); CEQA Guidelines §§
16 15064(a), 15365.

17 149. Further, defendants' pattern and practice of illegally relying on categorical
18 exemptions in permitting oil operations result in additional systematic violations of CEQA by
19 failing to:
20

- 21 • Conduct an initial study to determine whether a project may have significant environmental
22 impacts. Pub. Res. Code § 21082.2; CEQA Guidelines § 15365;
- 23 • Prepare a negative declaration or an EIR. Pub. Res. Code §§ 21080(c), (d), 21082.2;
24 CEQA Guidelines §§ 15064(a), 15365;
- 25 • Evaluate the potentially significant direct and reasonably foreseeable indirect environmental
26 impacts of a project. Pub. Res. Code § 21065 & 21083(b); CEQA Guidelines §§ 15064,
27 15126, 15126.2;
- 28

- 1 • Evaluate the potential cumulative impacts of a project. Pub. Res. Code § 21083(b)(2);
- 2 CEQA Guidelines §§ 15065(a)(3), 15130;
- 3 • Consider feasible mitigation measures to mitigate potential significant environmental
- 4 impacts. Pub. Res. Code §§ 21002, 21002.1, 21081(a); CEQA Guidelines §§ 15021,
- 5 15091, 15126.4; and,
- 6 • Evaluate all feasible alternatives to projects. Pub. Res. Code §§ 21002, 21002.1; CEQA
- 7 Guidelines §§ 15021, 15126.6.
- 8

9 150. As set forth above, the plaintiffs and petitioners contend that the City and Planning
10 Department have acted in an arbitrary and capricious manner, and have prejudicially abused their
11 discretion, in systematically failing to comply with the requirements of CEQA by engaging in a
12 pattern and practice of improperly relying on categorical exemptions from CEQA in issuing plan
13 approvals for oil-extraction activities, and otherwise failing to apply CEQA's requirements.

14 151. Such conduct by the City and Planning Department irreparably harms and continues
15 to threaten irreparable injury to plaintiffs and petitioners because defendants' actions expose them
16 and the general public to significant health risks and environmental degradation due to defendants'
17 failure to evaluate and analyze the impacts of oil-extraction operations and association activities,
18 and failure to deny drilling projects in environmentally over-burdened neighborhoods.

19
20 **SECOND CAUSE OF ACTION**
21 **(CCP §§ 1060, 1085, Violation of CEQA - Pattern and Practice of Illegally**
22 **Interpreting Exemptions)**

23 152. Petitioners incorporate herein by reference the allegations contained in the
24 foregoing paragraphs.

25 153. Petitioners are informed and believe, and thereupon allege, that the City and
26 Planning Department have a pattern and practice of exempting oil drilling applications from CEQA
27 review by issuing Class 5, category 23 and Class 1 exemptions of the City's CEQA Guidelines.

1 159. Petitioners incorporate herein by reference the allegations contained in the
2 foregoing paragraphs.

3 160. Petitioners are informed and believe, and thereon allege, that the City and Planning
4 Departments have a pattern and practice of establishing oil operation plan approval methods and
5 conditions in a manner that results in a discriminatory impact on plaintiffs and the public on the
6 basis of race, national origin, ethnic group, or color.

7 161. It is an unlawful, discriminatory practice for defendants, as recipients of state funds
8 or financial assistance, to create or establish operating methods and conditions that have the
9 purpose or effect of denying them the benefits of, or otherwise subjecting them to, discrimination
10 under any program or activity.

11 162. Defendants have imposed conditions on oil-operating sites in a disparate manner,
12 securing less protective conditions for sites located in neighborhoods with a vast majority of people
13 of color and small percentage of white residents, than for similarly situated sites in neighborhoods
14 with a significant percentage of white residents, resulting in an unlawful discriminatory impact in
15 violation of the plaintiffs' civil rights.

16 163. As a result of defendants' pattern and practice of imposing less protective conditions
17 for sites located in neighborhoods with a vast majority of people of color, plaintiffs are
18 disproportionately exposed to air pollutants and highly hazardous substances that are known to
19 cause cancer, neurological diseases, asthma, and other negative health conditions.

20 164. Defendants' pattern and practice of creating conditions and methods of operations
21 that are more health and environmentally protective for drill sites in communities with a significant
22 percentage of white residents, versus sites in otherwise similarly situated communities with vast
23 majorities of people of color, results in repeated violations of the agencies' anti-discrimination
24 mandates under Government Code section 11135, and violates the plaintiffs' rights to full and
25 equal protection under the law and to environmental justice.
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1 **PRAYER FOR RELIEF**

2 For these reasons, the plaintiffs and petitioners respectfully request the following relief:

- 3 1. A declaration of the parties’ rights, duties, and responsibilities under CEQA and
4 Government Code section 11135;
- 5 2. A declaration that defendants have a pattern and practice of failing to perform their
6 duties under the CEQA in their issuance of plan approvals for oil-extraction
7 operations;
- 8 3. A declaration that the City and its Planning Department have a pattern and practice
9 of illegally applying CEQA’s categorical exemptions and exceptions;
- 10 4. A declaration that the City and its Planning Department failed to comply with
11 Section 11135 of the California Government Code through its pattern, practice,
12 procedures, and/or customs of disparate and discriminatory impacts in issuing plan
13 approvals for oil-extraction activities;
- 14 5. Injunctive relief prohibiting the City and its Planning Department from issuing
15 further conditional use plan approvals for existing and new oil-extraction operations
16 that rely on categorical exemptions rather than undergo a faithful application of
17 CEQA’s requirements;
- 18 6. A peremptory writ of mandate directing the City and its Planning Department to:
- 19 a. Fully perform their duties under CEQA by, among other requirements,
20 conducting appropriate environmental review, and preparing an
21 environmental impact review document for each and every pending and all
22 future conditional use plan approvals for oil-extraction activities where there
23 is a possibility of a significant environmental effect, and denying applications
24 where there are feasible alternatives, or where significant impacts cannot be
25 avoided or mitigated below a threshold of significance;
- 26 b. Fully comply with Government Code section 11135 by, among other
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1 requirements, considering cumulative health impacts and environmental
2 justice factors in determining whether to approve or deny oil-drilling
3 conditional use permit applications;

- 4 7. Injunctive relief prohibiting the City and its Planning Department from issuing
5 further conditional use plan approvals for oil-extraction activities with disparate and
6 discriminatory treatment and protections from oil-extraction activities;
7
8 8. Equitable relief in the form of a court-established medical monitoring program
9 solely for the purposes of diagnosing disease and sharing information;
10
11 9. Reasonable attorneys' fees, costs, and expenses under Cal. Code Civ. Proc. §
12 1021.5, and other applicable law; and
13
14 10. All other equitable or legal relief as this Court should find just and proper.

13 DATED: November 6, 2015

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