

**SUMMONS**  
**(CITACION JUDICIAL)**

MAR 24 2022

STATE CLEARINGHOUSE

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(SOLO PARA USO DE LA CORTE)**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

02/15/2022 at 11:36:00 AM

Clerk of the Superior Court  
By Melissa Valdez, Deputy Clerk**NOTICE TO DEFENDANT:**  
**(AVISO AL DEMANDADO):**CITY OF SAN DIEGO, and DOES 1 through 10, inclusive, DEL MAR UNION  
SCHOOL DISTRICT, a California public school district, Real Party-in-Interest**YOU ARE BEING SUED BY PLAINTIFF:****(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

SAVE THE FIELD, a California nonprofit public benefit corporation

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA - COUNTY OF SAN DIEGO

330 W. Broadway  
San Diego, CA 92101  
CentralCASE NUMBER:  
(Número del Caso):

37-2022-00005335-CU-TT-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Rebecca L. Reed (Bar No. 275833) (619) 238-1900

Procopio, Cory, Hargreaves & Savitch LLP  
525 B Street, Suite 2200 San Diego, CA 92101DATE: 02/16/2022  
(Fecha)Clerk, by  
(Secretario)

M. Valdez

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):  
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):
4. ☐ by personal delivery on (date):

1 Rebecca L. Reed (Bar No. 275833)  
E-mail:rebecca.reed@procopio.com  
2 Procopio, Cory, Hargreaves &  
Savitch LLP  
3 525 B Street, Suite 2200  
San Diego, CA 92101  
4 Telephone: 619.238.1900  
Facsimile: 619.235.0398

5 Attorneys for Petitioner  
6 SAVE THE FIELD

**ELECTRONICALLY FILED**

Superior Court of California,  
County of San Diego

**02/08/2022 at 05:00:00 PM**

Clerk of the Superior Court  
By Adriana Iwe Anzalone, Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN DIEGO

10 SAVE THE FIELD, a California nonprofit public  
benefit corporation,

11 Petitioner,

12 v.

13 CITY OF SAN DIEGO, and DOES 1 through 10,  
14 inclusive,

15 Respondent.

16 DEL MAR UNION SCHOOL DISTRICT, a  
California public school district,

17 Real Party-in-Interest.  
18

Case No. 37-2022-00005335-CU-TT-CTL

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

**[CALIFORNIA CODE OF CIVIL  
PROCEDURE §§ 1085 AND 1094.5]**

**[CALIFORNIA ENVIRONMENTAL  
QUALITY ACT (PUB. RESOURCES  
CODE, §§ 21168; 21168.5) (CEQA)]**

19  
20  
21 Petitioner SAVE THE FIELD ("Save the Field" or "Petitioner"), a California nonprofit public  
22 benefit corporation alleges as follows:

23 **THE PARTIES**

24 1. Petitioner Save the Field is a California nonprofit public benefit corporation existing  
25 under the laws of the State of California. Petitioner's principal place of business is in Redding,  
26 California. Petitioner's purpose is to save the fields located at the Del Mar Heights School and to  
27 assure that government agencies, including the City of San Diego and Del Mar Union School District,  
28 act in a lawful manner. Petitioner has a clear, present and beneficial right to the performance of

1 Respondent's duty to carry out its obligations in conformity with all applicable state, federal, and  
2 other laws.

3 2. Petitioner's members are residents within the City of San Diego and within the  
4 boundaries of the Del Mar Union School District. Petitioner's members are residents and taxpayers  
5 within the City of San Diego and geographical area of the Del Mar Union School District.

6 3. Respondent and Defendant CITY OF SAN DIEGO (the "City" or "Respondent") is a  
7 local government agency and political subdivision. The City has taken the actions, as fully alleged  
8 below by which Petitioners are aggrieved and of which Petitioners seeks review by this Court.

9 4. Petitioners are informed and believe, and on that basis allege, Defendant and Real  
10 Party-in-Interest DEL MAR UNION SCHOOL DISTRICT (the "District") is a California school  
11 district, a California agency.

12 5. Petitioner is currently unaware of the true names and capacities of Real Parties in  
13 Interest DOES 1 through 10, inclusive. DOES 1 through 10 includes are persons or entities unknown  
14 to Petitioner who claim some legal or equitable interest in the Subject Property and/or the Project.  
15 Petitioner will amend this Petition to show the true names and capacities when such names and  
16 capacities become known.

### 17 JURISDICTION AND VENUE

18 6. This Court has jurisdiction over this action pursuant to California Code of Civil  
19 Procedure sections 1085 and 1094.5, and pursuant to Public Resources Code sections 21168 and  
20 21168.5.

21 7. Petitioner has no plain, speedy and adequate remedy at law and has exhausted all  
22 available administrative remedies.

23 8. Venue for this action properly lies in the San Diego County Superior Court because  
24 the subject property and the District's Project are located in San Diego County.

25 9. Petitioner complied with Public Resources Code section 21167.5 by mailing written  
26 notice of the commencement of this action to Respondent prior to filing suit. A true and correct copy  
27 of the Notice of Commencement of Action sent to Respondent pursuant to Public Resources Code  
28 section 21167.5 is attached hereto as **Exhibit A**.

1           10.     Additionally, Petitioner sent Respondent a Notice of Intent to Sue, a true and correct  
2 copy of which is attached hereto as **Exhibit B**. As of this date, Respondent has not responded to  
3 either Notice.

4                                   **GENERAL ALLEGATIONS**

5           11.     Petitioner petitions this Court for a Writ of Mandate ("Petition") directed to  
6 Respondent.

7           12.     Petitioner challenges Respondent's approval of a Coastal Development Permit  
8 ("CDP"), Conditional Use Permit ("CUP"), Site Development Permit ("SDP") and Planned  
9 Development Permit ("PDP") (collectively, the "Approvals") issued to the Del Mar Union School  
10 District in connection with the Del Mar Heights School Rebuild (the "Rebuild Project").

11           13.     The Rebuild Project includes the demolition of the existing Del Mar Heights  
12 Elementary School and construction of a much expanded school on a 10.85 acre site in a highly  
13 sensitive coastal zone adjacent the Torrey Pines State Reserve. The City approved the CDP based  
14 upon a "focused" environmental impact report and a mitigated negative declaration *that the San*  
15 *Diego Superior Court ordered vacated*. The City did so with knowledge of the Court's order vacating  
16 the MND and separately, knowing that the law does not permit a project's environmental review to  
17 be split across two types of environmental review documents. See *Farmland Protection Alliance v.*  
18 *County of Yolo* (2021) 71 Cal. App. 5th 300. As a consequence, the City, among other reasons, did  
19 not comply with the California Environmental Quality Act ("CEQA") or the Coastal Act.

20           14.     The City issued the CDP pursuant to San Diego Municipal Code §126.0702(a) and  
21 the decision was not appealable to the California Coastal Commission.

22           15.     The purpose of CEQA (Pub. Res. Code §21000 *et seq.*) is to maintain a quality  
23 environment for the people of the State of California now and in the future. §2100(a). "[T]he  
24 overriding purpose of CEQA is to ensure that agencies regulating activities that may affect the  
25 quality of the environment give primary consideration to preventing environmental damage." *Save*  
26 *Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal. App.4<sup>th</sup> 99,  
27 117. CEQA must be interpreted "so as to afford the fullest, broadest protection to the environment  
28



1 within reasonable scope of the statutory language.” *Friends of Mammoth v. Board of Supervisors*  
2 (1972) 8 Cal. 3d 247, 259.

3 16. The Coastal Act of 1976 (Pub. Res. Code §30000 *et seq.*) (the “Coastal Act”) is the  
4 legislative continuation of the coastal protection efforts commenced when the People passed  
5 Proposition 20. See *Ibarra v. California Coastal Comm.* (1986) 182 Cal. App. 3d 687, 693. One of  
6 the primary purposes of the Coastal Act is the avoidance of deleterious consequences of  
7 development on coastal resources. *Pacific Legal Foundation v. California Coastal Comm.* (1982)  
8 33 Cal. 3d 158, 163. The Act must be liberally construed to accomplish its objectives. Coastal Act  
9 §30009.

10 17. The Coastal Act’s goals are binding on local government and include, inter alia,  
11 maximizing, expanding and maintaining public access (§ §30210-14), expanding and protecting  
12 public recreation opportunities (§§ 30220-24) and protecting and enhancing land resources  
13 (§§20240-44). **The supremacy of these statewide policies over local, parochial concerns is a**  
14 **primary purpose of the Coastal Act.** *Pratt Construction Co. v. California Coastal Comm.* (2008)  
15 162 Cal. App. 4<sup>th</sup> 1068, 1075-76.

16 **A. The Del Mar Union School District Allocates \$56,000,000 in Proposition 39 Measure**  
17 **MM Funds for the Demolition of an Existing School and Construction of a**  
18 **Substantially Larger New School In a Highly Sensitive Coastal Zone Adjacent**  
19 **Torrey Pines State Reserve.**

20 18. The Rebuild Project is the product of the passage of Proposition 39 Measure MM,  
21 which authorized One Hundred and Eighty-Six Million Dollars (\$186,000,000) in bond funding for  
22 improvements to Del Mar Union schools.

23 19. The Strict Accountability in Local School Construction Bonds Act of 2000 (Ed. Code  
24 §§ 15264 *et seq.*) [“Proposition 39”] “amended the state Constitution to create an exception to the 1  
25 percent limit on ad valorem taxes on real property, and to reduce from two-thirds to 55 percent the  
26 number voters required to approve any bonded indebtedness proposed to be incurred by a school  
27 district for the ‘construction, reconstruction, rehabilitation, or replacement of school facilities’”.  
28 *Ridgecrest Charter School v. Sierra Sands Unified School District* (2005) 130 Cal. App. 4<sup>th</sup> 986, 993.

1           20.     The intent of Proposition 39 was to ensure that bond expenditures are in strict  
2 conformity with the law, to allow taxpayers to directly participate in the oversight of school  
3 expenditures, to allow for the public to be alerted to any waste or improper expenditure of school  
4 construction money, and to ensure that “unauthorized expenditures of school construction bond  
5 revenues are vigorously investigated, prosecuted, and that the courts act swiftly to restrain any  
6 improper expenditures.” (Ed. Code § 15264).

7           21.     The Rebuild Project lies in a sensitive coastal zone adjacent the Torrey Pines State  
8 Reserve and involves the complete demolition of the entirety of Del Mar Heights Elementary School  
9 (the “School”), a K-6 elementary school consisting of 53,406 square feet of improvements with an  
10 enrollment in the years 2019-2021 of 300-340 students. The Rebuild Project proposes to construct a  
11 new school with an increase of 14,417 square feet in excess of the existing school improvements.  
12 The Fifty-Six Million Dollars (\$56,000,000) of the Proposition Measure MM funds have been  
13 earmarked for the Rebuild Project.

14           22.     The existing Del Mar Heights School is located on a 10.85 acre site at 13555  
15 Boquita Drive in San Diego, California. On the northerly side of the school campus is a number of  
16 detached buildings, a parking lot, and other incidental improvements. A grassy field and two  
17 baseball fields sit on the remaining portion of the site.

18           23.     The lion’s share of the school is directly adjacent to the Torrey Pines State Reserve  
19 Extension, which is a protected State Natural Reserve and is located within the City of San Diego’s  
20 Multiple Habitat Preservation Area and is subject to the protections under the City’s Multiple  
21 Species Conservation Plan. As the California Department of Parks and Recreation has recognized,  
22 the reserve “is environmentally very sensitive and important regionally.”

23           24.     In addition to its location next to the protected reserve, the school sits in a highly  
24 sensitive Coastal Overlay Zone. (See San Diego Municipal Code § 132.0402.) The school is also  
25 situated in a “Very High Fire Hazard Severity Zone.” California has designated the location of the  
26 School as an area with the very highest risk of wildfire.<sup>1</sup>

27  
28 <sup>1</sup><https://gis.data.ca.gov/datasets/789d5286736248f69c4515c04f58f414>.

1           25.     In 2018, the District endeavored to “rehabilitate” the school campus and placed a  
2 Proposition 39 (Cal. Const. art. 13A §1(b)(3)(A) & (B)) bond measure – Measure MM – on the  
3 ballot asking voters to approve \$186,000,000 in funding payable from the voters by exceeding the  
4 statutory 1% cap on ad valorem taxes. Measure MM passed by at least 55% of the vote and the  
5 Rebuild Project for the school is being funded with \$56,000,000 of the Measure MM bond funds.

6           26.     While the Rebuild Project was pitched to the voters as a “rehabilitation project,” it  
7 actually proposes to demolish the existing 52,406 foot school and to replace it with 66,823 feet of  
8 new construction, expanding the school’s footprint over the entire width of the school site. The  
9 Rebuild Project also includes a redesign of the the existing campus and significantly increased the  
10 size of the school’s paved parking lot which will stretch the entire width of the campus.

11          27.     The 14,400 ft expansion of the school and significant extension of the parking lot  
12 comes at the cost of the current school’s grassy fields, which are currently used by the community  
13 after school hours. The school’s grassy fields will be reduced by 41,643 feet (nearly one acre). In  
14 other words, the school is swapping grassy playfields for a paved parking lot.

15           **B. In an Effort to Meet its Ambitious Project Schedule, Del Mar Union School**  
16           **District Short-Circuits CEQA review and prepares a deficient Mitigated Negative**  
17           **Declaration, Summarily Concluding that the Rebuild Project Would Have No**  
18           **Significant Impacts on the Environment.**

19          28.     From the early planning stages of the Rebuild Project, it was the District’s intention  
20 to begin demolition and construction of the existing campus in the summer of 2020. In a strained  
21 effort to meet its ambitious project schedule, the District short-circuited the normal CEQA review  
22 process. Instead of preparing an EIR, the District prepared an Initial Study/Mitigated Negative  
23 Declaration (“IS/MND”) which summarily concluded that the Rebuild Project would have no  
24 significant impacts on the environment.

25          29.     The District—*acting as its own lead agency*—also gave significant impetus to the  
26 Rebuild Project which foreclosed alternatives and mitigation measures. The District spent nearly  
27 \$1.1 million in Measure MM funds prior to the certification of its MND. Notably, the District spent  
28 \$956,645 in architect fees (representing 34% of the \$2,800,000 budget), in connection with

1 preparing the current design. The District first submitted pre-check documents (thereby incurring  
2 significant architectural costs) to the Division of the State Architect on February 11, 2020, *before*  
3 *the MND was first circulated for public review on February 20, 2020.*

4 30. The District expended significant costs in connection with the current design, and  
5 foreclosed the consideration of any project alternatives or mitigation measures that were raised  
6 during the CEQA process. Indeed, the District's preparation of detailed (and expensive)  
7 construction plans are the very type of bureaucratic and financial momentum the California  
8 Supreme Court has warned of—the District knew that it was going to approve its own  
9 environmental document and therefore moved forward with preparing detailed construction  
10 documents and solidifying the current design regardless of the environmental consequences.<sup>2</sup>

11 31. As a consequence, the IS/MND not surprisingly contained many factual and legal  
12 deficiencies, prompting a significant number of comment letters raising concerns related to the  
13 Rebuild Project's potentially significant impacts to the environment. For example, in response to  
14 the District's IS/MND, the California Department of Parks and Recreation wrote that given the  
15 school's location adjacent to the Reserve, and "[b]ecause this land is environmentally very  
16 sensitive and important regionally [State Parks has] several concerns regarding the proposed  
17 Project that need to be better addressed or redesigned before the Draft MND is completed."  
18 Additionally, the Sierra Club North County Coastal Group expressed its disappointment that its  
19 "concerns about protection of the adjacent reserve have not received adequate consideration to  
20 date." Save the Field also heavily commented on the District's IS/MND and submitted comments  
21 from technical experts at RK Engineering Group, Inc. regarding a number of deficiencies set forth  
22 in the District's IS/MND.

23  
24 <sup>2</sup> The California Supreme Court has stated,

25 "[T]he later the environmental review process begins, the more bureaucratic and financial momentum  
26 there is behind a proposed project, thus providing a strong incentive to ignore environmental concerns  
27 that could be dealt with more easily at an early stage of the project. This problem may be exacerbated  
where, as here, the public agency prepares and approves the EIR for its own project. For that reason,  
'EIRs should be prepared as early in the planning process as possible to enable environmental  
considerations to influence project, program or design.' "

28 (*Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 395, quoting *Bozung v. Local  
Agency Formation Com. of Ventura County* (1975) 13 Cal.3d 263, 282.)

1           32.     Regardless of the above comments and determined to proceed with the Rebuild  
2 Project as quickly as possible, on May 12, 2020, the District approved the Rebuild Project and  
3 adopted the MND.

4           **C. The District Refuses to Comply with the California Coastal Act Rebuffing Its**  
5           **Requirement to Apply for a Coastal Development Permit, Which is Required for**  
6           **Development in a Coastal Zone.**

7           33.     At the same time the District approved its own deficient MND, the District refused  
8 to submit an application for a Coastal Development Permit. The District unilaterally and  
9 inexplicably contended that it need not do so because it is a School District despite the express  
10 terms of the California Coastal Act which state that “any person . . . wishing to perform or  
11 undertake any development in the coastal zone . . . shall obtain a coastal development permit.”  
12 (Pub. Resources Code, § 30600(a).) “Person” is broadly defined to include any “district, county,  
13 city and county, city, town, the state, and any of the agencies and political subdivisions of those  
14 entities.” (Pub. Resources Code, §§ 21066; 30600(a).)

15           34.     And the District maintained this position despite receiving an email from the  
16 California Coastal Commission on May 19, 2020, confirming the District’s obligation to apply for  
17 and obtain a CDP stating, inter alia, as follows “(a)s Commission staff clarified to the school  
18 district, with concurrence from Raynard Abalos (cc’ed on this e-mail) of the City of San Diego,  
19 while the school project will be reviewed by the City due to its location within their permit  
20 jurisdiction of the coastal zone, the redevelopment of the school site would require a coastal  
21 development permit (CDP) be issued by the City, as the CDP is a state-required permit that would  
22 be reviewed by the City pursuant to their Commission-certified Local Coastal Pro.”

23           35.     Only as a consequence of letters issued by Petitioner’s counsel to the California  
24 Division of State Architect (“DSA”) – the agency responsible for issuing building permits for  
25 school improvements – notifying DSA of the District’s position did the District finally agree to  
26 comply with the City’s Coastal Development Permit application requirement.



1           36.     At the same time, Save the Field filed a Petition for Writ of Mandate challenging the  
2 District's deficient MND ("Petition"). See *Save the Field v. Del Mar Union School District* San  
3 Diego Superior Court Case No. 37-2020-00020207-CU-TT-CTL (the "Underlying Action").  
4

5           **D. The Trial Court Finds that the District's MND Violates CEQA and Orders it**  
6           **Vacated.**

7           37.     Following a hearing on Save the Field's Petition in the Underlying Action, the Court  
8 found that there was substantial evidence supporting a fair argument that certain aspects of the  
9 Rebuild Project may have a significant environmental effect. As a consequence, it ordered the  
10 District to vacate its Resolution approving the MND.

11          38.     In oral argument at the hearing on the merits of Save the Field's Petition, the  
12 District asked the Court to allow it to prepare a "Focused" EIR in lieu of its MND. In response,  
13 Save the Field's Counsel explained why a "Focused" EIR could not serve as the standalone  
14 environmental document for the entire Rebuild Project, and in foretelling fashion explained that the  
15 City of San Diego would not issue a Coastal Development Permit on the sole basis of a "Focused"  
16 EIR that merely "fixed" the issues in the defective MND.

17          39.     The Court then asked the Parties for supplemental briefing concerning the  
18 appropriate CEQA remedy. Only then did the District abandon its request for a "Focused EIR" and  
19 instead asked the Court to keep its MND alive permitting it to merely "fix" the issues in the MND.  
20 The trial court did not grant the District's request and instead ordered that the District was "...left  
21 with three choices if the Rebuild Project is to go forward: it may prepare and circulate a complete  
22 EIR, a 'focused' EIR or a second MND." Thereafter, the Court entered judgment ordering the  
23 District to vacate its MND.  
24  
25  
26  
27  
28

1           **E. The District Prepares a “Focused” EIR to Replace the Vacated MND and**  
2           **Separately, Resurrects the Vacated MND by Board Resolution and Submits Both**  
3           **Environmental Documents to the City of San Diego for Purposes of Obtaining a**  
4           **Coastal Development Permit.**

5           40. Subsequently, the District’s Board issued Resolution 2021-11 which vacated the  
6 MND while concurrently resurrecting it. Specifically, the Resolution explains that the Board  
7 “*approves, adopts, and certifies the MND*” (that the trial court ordered vacated). It also adopted a  
8 Focused EIR.

9           41. Notably, in its Notice of Preparation and Notice of Decision issued by the District to  
10 the public with respect to its Focused EIR, the District made no mention of its intent to prepare and  
11 adopt the vacated MND.<sup>3</sup>

12           **F. The City Issues a CDP in Reliance on a “Focused” EIR and a Court-Ordered**  
13           **Vacated MND.**

14           42. Save the Field extensively commented during the City’s review of the District’s  
15 application for a Coastal Development Permit (and CUP, SDP and PDP).

16           43. In response, the City notified Save the Field that the environmental action for the  
17 Rebuild Project was not appealable. The City stated, inter alia, “[d]evelopment on the Del Mar  
18 Heights School project site is covered under the Del Mar Unified School District’s Focused  
19 EIR and MND...The City of San Diego, as a Responsible Agency pursuant to CEQA Statute

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20           <sup>3</sup>Following entry of judgment, Save the Field appealed the Court’s judgment permitting the District to prepare  
21 a “Focused” EIR in place of the vacated MND. As explained in *Farmland Protection Alliance v. County of Yolo*  
(2021) 71 Cal. App. 5th 300; 286 Cal.Rptr.3d 227, 229, Public Resources Code

22           21168.9 does not authorize a trial court to split a project’s environmental  
23 review across two types of environmental review documents (i.e., a negative  
24 declaration or mitigated negative declaration and an environmental impact report).  
25 The Act requires an agency to prepare a full environmental impact report  
26 when substantial evidence supports a fair argument that any aspect of the  
27 project may have a significant effect on the environment. Section 21168.9  
28 was enacted to provide a trial court with flexibility in fashioning remedies to  
ensure compliance with the Act; it does not authorize a trial court to circumvent  
the mandatory provisions thereof. Indeed, to find otherwise would strike a death  
knell to the heart of the Act, which is the preparation of an environmental  
impact report for the project, as provided in the third tier of the environmental  
review process.

1 **section 21069 and CEQA Guidelines Section 15096, has determined that the previously**  
2 **Focused EIR and MND adequately addressed the project....no further documentation is**  
3 **required by CEQA.”**

4 44. In other words, the City relied on the Focused EIR and separately, the court ordered  
5 vacated MND to find that the requirements of CEQA were satisfied.

6 45. Subsequently, and over Save the Field’s objections, the City approved and issued a  
7 Coastal Development Permit for the Rebuild Project.

8 46. The City violated CEQA and the Coastal Act by relying on a vacated MND and  
9 separately, relying on two separate environmental documents for the Rebuild Project when it issued  
10 the CDP.

11 **G. The City Could Not Make Findings Required by the San Diego Municipal Code**  
12 **for Approval of the Permits.**

13 47. Separately, the City violated the SDMC by failing to make findings required prior to  
14 the issuance of the Permits.

15 48. The San Diego Municipal Code (“SDMC”) requires as a precondition to issuing a  
16 CDP the following findings: (1) the proposed coastal development will not encroach upon any  
17 existing physical accessway that is legally used by the public or any proposed public accessway  
18 identified in a Local Coastal Program land use plan; and the proposed coastal development will  
19 enhance and protect public views to and along the ocean and other scenic coastal areas as specified  
20 in the Local Coastal Program land use plan; (2) the proposed coastal development will not  
21 adversely affect environmentally sensitive lands; and (3) the proposed coastal development is in  
22 conformity with the certified Local Coastal Program land use plan and complies with all  
23 regulations of the certified Implementation Program.

24 49. The Coastal Act states that scenic and visual qualities of the coastal areas shall be  
25 considered and protected as a resource of public importance.

26 50. The Torrey Pines Community Plan (“Community Plan”) explains that the Torrey  
27 Pines community planning area possesses many highly scenic open space areas and dramatic  
28

1 vistas. Torrey Pines also has a number of road segments that have scenic qualities worthy of formal  
2 recognition and protection.

3 51. Indeed, the Community Plan explains that “[s]ignificant resource areas” include the  
4 “Torrey Pines State Reserve Extension,” and that future development adjacent to the Torrey Pines  
5 State Reserve Extension shall provide adequate buffer areas and setbacks to avoid significant  
6 visual impacts.

7 52. The Rebuild Project does not preserve the scenic and visual qualities of the Reserve.  
8 The Rebuild Project will greatly expand the footprint of the existing campus across the entirety of  
9 the site, which will result in the construction of new buildings closer to the Reserve and diminish  
10 views to the ocean and to the Reserve from the surrounding areas.

11 **H. The Rebuild Project Fails to Conform to the Certified Local Coastal Plan.**

12 53. The District’s Focused EIR and Court-ordered vacated MND omit any analysis of  
13 the Rebuild Project’s consistency with the City of San Diego General Plan or the Torrey Pines  
14 Community Plan. The District’s post-hoc analysis of the Rebuild Project’s conformity with the  
15 Torrey Pines Community Plan, first analyzed in response to comments to the District’s inadequate  
16 MND, omits many of the obvious inconsistencies with the Plan, including how it is consistent with  
17 parks and recreation and development near the Reserve.

18 54. As one example, the District fails to recognize the Rebuild Project’s inconsistency  
19 with the Community Plan goal to “provide adequate park and recreation facilities” by securing  
20 joint use agreements with the elementary schools. The Rebuild Project’s significant reduction in  
21 outdoor recreation space is directly contrary to this goal.

22 55. Indeed, the Rebuild Project proposes to reduce the size of the open/community  
23 accessible area by 61,340 square feet. The City’s General Plan, Recreational Element, establishes a  
24 population-based park requirement of 2.40 usable acres per 1,000 population. As set forth in the  
25 Torrey Pines Community Plan, the potential buildout population of the community area is 7,000  
26 and would require 16.80 usable acres of park space. The only park identified in the Torrey Pines  
27 community plan area is the Crest Canyon Neighborhood Park, which has approximately 1.5 acres  
28

1 of usable park area. Thus, the Torrey Pines community planning area is 15.30 acres short of its  
2 requirements.

3 56. The Torrey Pines Community Plan recognizes the need for additional park space  
4 and expressly contemplates a joint use of the Del Mar Heights Elementary School to assist with  
5 fulfilling its shortfall. Instead, the Rebuild Project will diminish the availability of usable park area  
6 even further by reducing the existing grassy playfields available to the public by at least 41,643  
7 square feet (.96 acres).

8 57. Further, the Community Plan explains that the area of Torrey Pines located south of  
9 Carmel Valley Road “is heavily influenced by Torrey Pines State Reserve and Los Penasquitos  
10 Canyon Preserve and Lagoon.” Most of this portion of the community is designated open space to  
11 protect the lagoon and resources within Torrey Pines State Park Reserve Extension. The  
12 Community Plan requires that “[n]ew development adjacent to and impacting biologically sensitive  
13 areas shall be responsible for the restoration and enhancement of that area.” Despite the Rebuild  
14 Project’s impacts on the Reserve, the District has refused to study and commit to mitigating the  
15 Project’s impacts.

16 **I. The Rebuild Project Runs Afoul of the Torrey Pines Community Plan Brush**  
17 **Management Guidance.**

18 58. The Torrey Pines Community Plan explains that “[b]ecause of the abundance of  
19 natural open space areas including canyons rich with native vegetation, special brush management  
20 consideration and enforcement should be provided within the Torrey Pines planning area.”

21 59. The Rebuild Project proposes alternative compliance for an expanded, fully  
22 irrigated Brush Management Zone One condition measuring 43-feet with no Brush Management  
23 Zone Two. However, with the Coastal Zone, Zone Two may only be reduced by 30 feet, leaving a  
24 balance of 35 feet. The Rebuild Project does not comply with the requirement.



1           **J. There is no Analysis of Impacts to Public Health, Safety and Welfare Occasioned**  
2           **by the Increased Risk of Wildfire on Account of the Rebuild Project's Location in**  
3           **a "Very High Fire Hazard Severity Zone" and Proximity to the Reserve.**

4           60.     The District's Rebuild Project is located in the most extreme fire hazard zone in  
5     California – a "Very High Fire Hazard Severity Zone" and does not comply with the 100-foot  
6     setback requirement. And the Focused EIR fails to provide the necessary related public disclosure  
7     of this fact.

8           61.     Additionally, the Rebuild Project fails to consider impacts to wildfire evacuation,  
9     which can have significant adverse impacts on first responder's ability to respond to any wildfire at  
10    or near the Reserve.

11          62.     A Preliminary Fire Protection Analysis Report dated August 16, 2020 with respect  
12    to the Rebuild Project concluded that "there are serious deficiencies in the proposed building  
13    configurations and mitigations related to CEQA Significant Impacts related to wild fire safety as  
14    required for new projects and residential developments". The Report continues "it is unknown if  
15    the process of evacuating students from the school during a wildfire event has been analyzed" and  
16    "[t]he existing evaluation route for the school and surrounding residential neighborhoods does not  
17    allow for an effective simultaneous evacuation and ingress of emergency vehicles due to narrow,  
18    congested streets". The Report also states "[i]nadequate emergency access is a Significant Adverse  
19    Impact according to Appendix G, XVI Transportation/Traffic of the California Environmental  
20    Quality Act (CEQA) and must be mitigated in the Project planning documents and process."

21          63.     A second fire study dated August 17, 2020 concluded that "evacuation is a major  
22    concern as the existing road network is inadequate for ingress and egress during an emergency."  
23    The foregoing issues were not evaluated at all in environmental review.

24           **K. The Findings Necessary for a SDP Were not Made.**

25          64.     The SDMC requires the decision-making body to support a decision to grant a Site  
26    Development Permit for projects located in Environmentally Sensitive Lands ("ESL") with a  
27    finding that the site in question is physically suitable for the design and siting of the proposed  
28

1 development such that the development will result in minimum disturbance to environmentally  
2 sensitive lands.

3 65. Impacts to ESL were not evaluated and will require deviations from critical brush  
4 management regulations. Further, given the Rebuild Project's increase of risk of wildfire and  
5 proximity to the Reserve, the Site is not physically suitable for the design and siting of the Rebuild  
6 Project.

7 **L. The Rebuild Project Was Not Analyzed for Consistency with the City's Climate**  
8 **Action Plan in Violation of CEQA.**

9 66. The City did not analyze and therefore, assure that the Rebuild Project complies  
10 with the City's Climate Action Plan ("CAP") and its accompanying conformance checklist ("CAP  
11 Checklist") which constitutes a separate and significant violation of CEQA Guidelines Section  
12 15064.4.

13  
14 **FIRST CAUSE OF ACTION**

15 **(Writ of Mandamus [Civ. Proc. Code §§ 1085 and 1094.5])**

16 67. Petitioner incorporates by reference each and every allegation contained above  
17 below as though the same were set forth in full herein.

18 68. Respondent approved the CDP, CUP, SDP and PDP without following the law, inter  
19 alia, CEQA, the Coastal Act and the SDMC, as follows:

- 20 a. Approving the CDP on the basis of a Court-ordered vacated MND and a "Focused"  
21 EIR;
- 22 b. Finding that City the environmental action for the Rebuild Project was not  
23 appealable on account of the City's reliance on the "Focused" EIR and Court-  
24 ordered vacated MND;
- 25 c. Without making findings required by the SDMC for approval of permits;
- 26 d. Without making findings of the Rebuild Project's consistency with the City of San  
27 Diego General Plan and Torrey Pines Community Plan;
- 28

- 1 e. Given that the Rebuild Project does not comply with Brush Management  
2 requirements;
- 3 f. In the absence of any analysis of impacts to public health, safety and welfare  
4 occasioned by the increased risk of wildfire on account of the Rebuild's Project's  
5 location in a "Very High Fire Hazard Severity Zone" and proximity to the Torrey  
6 Pines State Reserve;
- 7 g. Without making the necessary findings for a SDP, including a finding that the site in  
8 question is physically suitable for the design and siting of the proposed development  
9 and that it will result in minimum disturbance to environmentally sensitive lands;
- 10 h. Without any analysis as to whether the Rebuild Project is consistent with the City's  
11 Climate Action Plan.

12 69. For each of the foregoing reasons, Respondent failed to proceed in the manner  
13 required by law and committed a prejudicial abuse of discretion in that its decisions are not  
14 supported by the findings and the findings are not supported by law. As a consequence, each of the  
15 foregoing reasons independently compels setting aside the City's Approvals set forth above.

16 **SECOND CAUSE OF ACTION**

17 **(Violation of the California Environmental Quality Act)**

18 **[Public Resources Code section 21000 *et seq.*]**

19 70. Petitioner incorporates by reference each and every allegation contained in each  
20 paragraph above and below as though the same was set forth in full herein.

21 71. Respondent is charged with the authority to regulate and administer land use activities  
22 within its jurisdiction, subject at all times to the obligations and limitations of all applicable state,  
23 federal and other laws, including CEQA, the CEQA Guidelines, the California Planning and Zoning  
24 Law, and the California Coastal Act.

25 72. Respondent acted as the "Responsible Agency" with respect to issuing the Approvals  
26 at issue in this case.

27 73. The MND fails to comply with CEQA as the trial court found in the Underlying  
28 Action. As a consequence, the trial court ordered vacated the Resolution approving the MND, which

1 the District's Board then vacated. The District's action to "resurrect" the vacated MND is void as a  
2 matter of law. As a consequence, the MND is insufficient to support a decision on the Rebuild  
3 Project.

4 74. In addition, the Respondent's reliance on the "Focused" EIR is in derogation of  
5 CEQA. CEQA requires an agency to prepare a full environmental impact report when substantial  
6 evidence supports a fair argument that any aspect of the project may have a significant effect on the  
7 environment. See *Farmland Protection Alliance, supra*, 71 Cal. App. 5th 300; 286 Cal.Rptr.3d at  
8 229, PRC § 21168.9. Here, the MND was vacated and the District did not prepare a full EIR. As a  
9 consequence, Respondent was not entitled to rely on a "Focused EIR" for the purpose of issuing a  
10 CDP.

11 75. Further, Respondent's reliance on the "Focused" EIR along with the vacated MND  
12 violates CEQA. CEQA does not permit a project's environmental review to be split across two types  
13 of environmental documents. See *Farmland Protection Alliance, supra*, 71 Cal. App. 5th 300; 286  
14 Cal.Rptr.3d at 229, PRC § 21168.9.

15 76. In addition, Respondent's failure to analyze the Rebuild Project's consistency with  
16 the City's Climate Action Plan violated CEQA.

### 17 **THIRD CAUSE OF ACTION**

#### 18 **(Declaratory Relief)**

19 77. Petitioner incorporates by reference each and every allegation contained above and  
20 below as though the same were set forth in full herein.

21 78. An actual and substantial controversy has arisen between Petitioner and Respondent  
22 with respect to the validity of the Approvals issued by the City.

23 79. Petitioner desires a judicial determination with respect to the legal force and effect  
24 of the actions taken by the City. Such declaration is necessary at this time so that Petitioner and  
25 Respondent can ascertain the legal force and effect of the actions taken by Respondent, and is  
26 appropriate because it will obviate the need for future legal action between the parties regarding the  
27 same subject matter.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays for relief as follows:

1. Alternative and peremptory writs of mandate commanding the Respondent to vacate its approvals of the CDP, CUP, SDP and PDP;
2. An injunction suspending any and all activity pursuant to Respondent's Approvals that will prejudice until Respondent has fully complied with all requirements of the California Environmental Quality Act, the Coastal Act and SDMC and all other applicable state and local laws, policies, ordinances and regulations as directed by the Court;
3. A judicial determination that the City's Approvals are invalid;
4. Petitioner also seeks the following relief:
  - a) For the costs of suit herein;
  - b) For an award of attorneys' fees and costs pursuant to Code of Civil Procedure section 1021.5; and,
  - c) For such other and further relief as the Court deems just and proper.

DATED: February 8, 2022

PROCOPIO, CORY, HARGREAVES &  
SAVITCH LLP

By: 

Rebecca L. Reed  
Attorneys for Petitioner  
SAVE THE FIELD



**VERIFICATION**

I have read the foregoing Verified Petition for Writ of Mandate and know the contents thereof.

I am the Secretary for Save the Field, a California nonprofit public benefit corporation, Petitioner in this action, and I am authorized to make this verification for and on its behalf. The matters stated in the foregoing documents are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe to be true.

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

Executed this 4 th day of February, 2022, at San Diego, California.

Sue Turner  
Sue Turner



# **EXHIBIT A**

Rebecca L. Reed (Bar No. 275833)  
E-mail: rebecca.reed@procopio.com  
Procopio, Cory, Hargreaves &  
Savitch LLP  
525 B Street, Suite 2200  
San Diego, CA 92101  
Telephone: 619.238.1900  
Facsimile: 619.235.0398

Attorneys for Petitioner  
SAVE THE FIELD

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

SAVE THE FIELD, a California nonprofit public  
benefit corporation,

Petitioner,

v.

CITY OF SAN DIEGO, and DOES 1 through 10,  
inclusive,

Respondent.

DEL MAR UNION SCHOOL DISTRICT,

Real Parties-in-Interest.

**NOTICE OF COMMENCEMENT OF  
ACTION PURSUANT TO  
CALIFORNIA ENVIRONMENTAL  
QUALITY ACT**

**[Public Resources Code § 21167.5]**

**TO RESPONDENT DEL MAR UNION SCHOOL DISTRICT:**

PLEASE TAKE NOTICE THAT on or shortly after February 2, 2022, Petitioner SAVE THE FIELD ("Save the Field" or "Petitioner") intends to commence an action seeking a writ of mandamus and injunctive relief to overturn, set aside, and annul the CITY OF SAN DIEGO's (the "City") approval of the Coastal Development Permit, Site Development Permit, Planned Development Permit, and Conditional Permit (together, constituting Permit Application NO. PTS 666025) in connection with the Del Mar Heights School Rebuild Project (the "Project") and its approval of the Project based on violations of the California Environmental Quality Act, the San Diego Municipal Code, the City of San Diego's Climate Action Plan and the City's Certified Local Coastal Plan.

1           Petitioner also intends to seek an award of attorneys' fees pursuant to Code of Civil Procedure  
2 section 1021.5.

3       DATED: January 31, 2022

PROCOPIO, CORY, HARGREAVES &  
SAVITCH LLP

4  
5 By: 

Rebecca L. Reed  
Attorneys for Petitioner  
SAVE THE FIELD

1 Rebecca L. Reed (Bar No. 275833)  
E-mail:rebecca.reed@procopio.com  
2 PROCOPIO, CORY, HARGREAVES &  
SAVITCH LLP  
3 525 B Street, Suite 2200  
San Diego, CA 92101  
4 Telephone: 619.238.1900  
Facsimile: 619.235.0398

5 Attorneys for Petitioner  
6 SAVE THE FIELD  
7  
8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

10 SAVE THE FIELD, a California nonprofit public  
benefit corporation,

11 Petitioner,  
12

13 v.

14 CITY OF SAN DIEGO, and DOES 1 through 10,  
inclusive,

15 Respondent.  
16

DEL MAR UNION SCHOOL DISTRICT,

17 Real Parties-in-Interest.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Case No.

**PROOF OF SERVICE**

Dept:

Judge:

Complaint Filed:

Trial Date:



1 I am a resident of the State of California, over the age of eighteen years, and not a party to  
2 the within action. My business address is PROCOPIO, CORY, HARGREAVES & SAVITCH  
3 LLP, 525 "B" Street, Suite 2200, San Diego, California 92101. On January 31, 2022, I served the  
4 within documents:

5 **1. NOTICE OF COMMENCEMENT OF ACTION PURSUANT TO CALIFORNIA**  
6 **ENVIRONMENTAL QUALITY ACT [PUBLIC RESOURCES CODE § 21167.5];**

7 **2. NOTICE OF INTENT TO SUE**

8 ☒ **BY U.S. MAIL** by placing the document(s) listed above in a sealed envelope with postage  
9 thereon fully prepaid, in the United States mail at San Diego, California addressed as set forth  
10 below. I am readily familiar with the firm's practice of collection and processing  
11 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal  
12 Service on the same day with postage thereon fully prepaid in the ordinary course of business.  
13 I am aware that on motion of the party served, service is presumed invalid if postal  
14 cancellation date or postage meter date is more than one day after date of deposit for mailing  
15 an affidavit.

16 ☒ **BY E-MAIL OR ELECTRONIC SERVICE** based upon court order or an agreement of the  
17 parties to accept service by electronic transmission, by electronically mailing the document(s)  
18 listed above to the e-mail address(es) set forth below, or as stated on the attached service list  
19 and/or by electronically notifying the parties set forth below that the document(s) listed above  
20 can be located and downloaded from the hyperlink provided. No error was received, within a  
21 reasonable time after the transmission, nor any electronic message or other indication that the  
22 transmission was unsuccessful.

23 City of San Diego  
24 ATTN: Martha Blake  
25 City of San Diego  
26 9485 Aero Drive, M.S. 413  
27 San Diego, CA 92123  
28 [mblake@sandiego.gov](mailto:mblake@sandiego.gov)

City of San Diego  
Attn: City Clerk  
202 C. St  
San Diego, CA 92101

Board of Trustees  
Del Mar Union School District  
11232 El Camino Real, Suite 100  
San Diego, CA 92130

Wendy H. Wiles, Esq.  
Jeffrey W. Frey, Esq.  
ATKINSON, ANDELSON, LOYA,  
RUUD & ROMO  
20 Pacifica, Suite 1100  
Irvine, CA 92618

Telephone: 949-453-4260  
Facsimile: 949-453-4262  
[wendy.wiles@aalrr.com](mailto:wendy.wiles@aalrr.com)  
[jeff.frey@aalrr.com](mailto:jeff.frey@aalrr.com)  
(cc: [Irene.dehart@aalrr.com](mailto:Irene.dehart@aalrr.com))

**cc: on behalf of Real Part In Interest**  
Del Mar Union School District

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

Executed on January 31, 2022, at San Diego, California.

  
Maria Vizcaino

## **EXHIBIT B**



PROCOPIO  
525 B Street  
Suite 2200  
San Diego, CA 92101  
T. 619.238.1900  
F. 619.235.0398

REBECCA L. REED  
P. 619.906.5786  
rebecca.reed@procopio.com

DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

January 31, 2022

**VIA U.S. MAIL AND E-MAIL**

City of San Diego  
ATTN: Martha Blake  
City of San Diego  
9485 Aero Drive, M.S. 413  
San Diego, CA 92123  
mblake@sandiego.gov

Board of Trustees  
Del Mar Union School District  
11232 El Camino Real  
Suite 100  
San Diego, CA 92130

City of San Diego  
Attn: City Clerk  
202 C. St  
San Diego, CA 92101

Re: Notice of Intent to File Petition for Writ of Mandate Re: Del Mar Heights Rebuild Project  
Project No. 666025

Dear Sir/Madam:

This firm represents the interests of Save the Field, a California nonprofit public benefit corporation in connection with the above-referenced matter. Please accept this correspondence as formal notification that Save the Field intends to, on or before February 2, 2022, file suit against the City of San Diego (the "City") to overturn, set aside, and annul the City's approval of the Coastal Development Permit, Site Development Permit, Planned Development Permit, and Conditional Permit (together, constituting Permit Application No. PTS 666025 and collectively "Approvals") in connection with the Del Mar Union School District's (the "District") Del Mar Heights Rebuild Project (the "Project") on grounds, inter alia, that the City failed to comply with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) ("CEQA"), the San Diego Municipal Code, the City of San Diego's Climate Action Plan, and the City's Certified Local Coastal Plan.

Save the Field's action will allege, inter alia, that the City's Approvals which are based on a vacated Mitigated Negative Declaration and a "focused" EIR violate CEQA, that the City failed to analyze the Rebuild Project to ensure its consistency with the City's own Climate Action Plan, that the Rebuild Project fails to comply with the City's CDP and LCP requirements and is not in conformity with the City's Certified Local Coastal Plan and that the findings for a Conditional Use Permit and Planned

**procopio.com**



Development Permit cannot be made. The Petition will also seek an award of attorneys' fees and costs under Code of Civil Procedure section 1021.5. This letter is intended to provide formal notice of the same pursuant to *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 577 and Public Resources Code section 21167.5.

A public interest would be served if the City were to voluntarily comply with its statutory duties in order to avoid the expenses of litigation. If the City is interested in resolving this matter, please contact me immediately.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Rebecca L. Reed", written over a horizontal line.

Rebecca L. Reed

RLR

cc: Wendy Wiles, Esq.

1 Rebecca L. Reed (Bar No. 275833)  
E-mail:rebecca.reed@procopio.com  
2 PROCOPIO, CORY, HARGREAVES &  
SAVITCH LLP  
3 525 B Street, Suite 2200  
San Diego, CA 92101  
4 Telephone: 619.238.1900  
Facsimile: 619.235.0398

5 Attorneys for Petitioner  
6 SAVE THE FIELD

7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SAN DIEGO

10 SAVE THE FIELD, a California nonprofit public  
benefit corporation,

11 Petitioner,

12 v.

13 CITY OF SAN DIEGO, and DOES 1 through 10,  
14 inclusive,

15 Respondent.

16 DEL MAR UNION SCHOOL DISTRICT,

17 Real Parties-in-Interest.

Case No.

**PROOF OF SERVICE**

Dept:

Judge:

Complaint Filed:

Trial Date:

1 I am a resident of the State of California, over the age of eighteen years, and not a party to  
2 the within action. My business address is PROCOPIO, CORY, HARGREAVES & SAVITCH  
3 LLP, 525 "B" Street, Suite 2200, San Diego, California 92101. On January 31, 2022, I served the  
4 within documents:

5 **1. NOTICE OF COMMENCEMENT OF ACTION PURSUANT TO CALIFORNIA  
6 ENVIRONMENTAL QUALITY ACT [PUBLIC RESOURCES CODE § 21167.5];**

7 **2. NOTICE OF INTENT TO SUE**

8 ☒ **BY U.S. MAIL** by placing the document(s) listed above in a sealed envelope with postage  
9 thereon fully prepaid, in the United States mail at San Diego, California addressed as set forth  
10 below. I am readily familiar with the firm's practice of collection and processing  
11 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal  
12 Service on the same day with postage thereon fully prepaid in the ordinary course of business.  
13 I am aware that on motion of the party served, service is presumed invalid if postal  
14 cancellation date or postage meter date is more than one day after date of deposit for mailing  
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16 ☒ **BY E-MAIL OR ELECTRONIC SERVICE** based upon court order or an agreement of the  
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18 listed above to the e-mail address(es) set forth below, or as stated on the attached service list  
19 and/or by electronically notifying the parties set forth below that the document(s) listed above  
20 can be located and downloaded from the hyperlink provided. No error was received, within a  
21 reasonable time after the transmission, nor any electronic message or other indication that the  
22 transmission was unsuccessful.

23 City of San Diego  
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26 9485 Aero Drive, M.S. 413  
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City of San Diego  
Attn: City Clerk  
202 C. St  
San Diego, CA 92101

Board of Trustees  
Del Mar Union School District  
11232 El Camino Real, Suite 100  
San Diego, CA 92130

Wendy H. Wiles, Esq.  
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ATKINSON, ANDELSON, LOYA,  
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[wendy.wiles@aalrr.com](mailto:wendy.wiles@aalrr.com)  
[jeff.frey@aalrr.com](mailto:jeff.frey@aalrr.com)  
(cc: [Irene.dehart@aalrr.com](mailto:Irene.dehart@aalrr.com))

**cc: on behalf of Real Part In Interest**  
Del Mar Union School District

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

Executed on January 31, 2022, at San Diego, California.

  
Maria Vizcaino





PROCOPIO  
525 B Street  
Suite 2200  
San Diego, CA 92101  
T. 619.238.1900  
F. 619.235.0398

REBECCA L. REED  
P. 619.906.5786  
rebecca.reed@procopio.com

DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

Federal Aviation Administration  
800 Independence Avenue, SW  
Washington, DC 20591

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

Dear Sir or Madam:

Pursuant to California Public Resources Code Section 21167.6.5, this letter serves as notice of the action *Save the Field v. City of San Diego, et al.*; San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL. Enclosed herewith is a copy of the summons and petition filed in this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Rebecca L. Reed", written over a horizontal line.

Rebecca L. Reed

RLR/amg  
Enclosures

procopio.com





PROCOPIO  
525 B Street  
Suite 2200  
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T. 619.238.1900  
F. 619.235.0398

REBECCA L. REED  
P. 619.906.5786  
rebecca.reed@procopio.com

DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
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SAN DIEGO  
SILICON VALLEY

March 21, 2022

Department of Transportation, Region 9  
Federal Transit Administration  
San Francisco Federal Building  
90 7th Street, Suite 15-300  
San Francisco, CA 94103

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

Dear Sir or Madam:

Pursuant to California Public Resources Code Section 21167.6.5, this letter serves as notice of the action *Save the Field v. City of San Diego, et al.*; San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL. Enclosed herewith is a copy of the summons and petition filed in this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Rebecca L. Reed", written over a horizontal line.

Rebecca L. Reed

RLR/amg  
Enclosures

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PROCOPIO  
525 B Street  
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March 21, 2022

Naval Facilities Command Southwest  
1220 Pacific Coast Highway, #127  
San Diego, CA 92132  
Karen Ringel-Director of Real Estate

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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March 21, 2022

Army Corp of Engineers  
8775 Aero Drive, #232  
San Diego, CA 92123

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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March 21, 2022

Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, CA 94105

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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March 21, 2022

US Customs and Border Protection  
1300 Pennsylvania Avenue, NW  
Washington, DC 20229

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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March 21, 2022

US Fish and Wildlife Service  
610 W Ash Street, #1103  
San Diego, CA 92101

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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March 21, 2022

USDA Natural Resources Conservation Services  
1400 Independence Ave., SW, Room 5105-A  
Washington, DC 20250

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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March 21, 2022

State Clearinghouse  
1400 10th Street #12  
Sacramento, CA 95814

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San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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March 21, 2022

Caltrans Planning, District 11  
4050 Taylor Street  
San Diego, CA 92110

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San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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March 21, 2022

Department of Resources Recycling and Recovery  
(CalRecycle)  
PO Box 4025  
Sacramento, CA 0

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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March 21, 2022

California Department of Fish and Game  
3883 Ruffin Road  
San Diego, CA 92123

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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March 21, 2022

California Environmental Protection Agency  
PO Box 2815  
Sacramento, CA 95812

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
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DEL MAR HEIGHTS  
LAS VEGAS  
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PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

California Department of Housing and Community  
Development  
2020 West El Camino Avenue  
Sacramento, CA 95833

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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LAS VEGAS  
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SAN DIEGO  
SILICON VALLEY

March 21, 2022

California Natural Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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LAS VEGAS  
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March 21, 2022

California Regional Water Quality Board, Region 9  
2375 Northside Drive, Suite 100  
San Diego, CA 92108

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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SILICON VALLEY

March 21, 2022

California Air Resources Board  
PO Box 2815  
Sacramento, CA 95812

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March 21, 2022

Office of the Attorney General  
600 West Boardway, Suite 1800  
San Diego, CA 92101

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March 21, 2022

Caltrans-Division of Aeronautics  
1120 N. Street  
Sacramento, CA 95814

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March 21, 2022

California Transportation Commission  
1120 N. Street  
Sacramento, CA 95814

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March 21, 2022

California Office of Planning and Research  
1400 10th Street #100  
Sacramento, CA 95814

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March 21, 2022

California Highway Patrol  
601 North 7th Street  
Sacramento, CA 95814

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California Energy Commission  
1516 9th Street  
Sacramento, CA 95814

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DEL MAR HEIGHTS  
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March 21, 2022

California Department of Conservation  
801 K Street, MS 24-01  
Sacramento, CA 95814

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rebecca.reed@procopio.com

DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

California Native American Heritage Commission  
1550 Harbor Blvd., Suite 100  
West Sacramento, CA 95691

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

Dear Sir or Madam:

Pursuant to California Public Resources Code Section 21167.6.5, this letter serves as notice of the action *Save the Field v. City of San Diego, et al.*; San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL. Enclosed herewith is a copy of the summons and petition filed in this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "RLR", with a horizontal line underneath.

Rebecca L. Reed

RLR/amg  
Enclosures



PROCOPIO  
525 B Street  
Suite 2200  
San Diego, CA 92101  
T. 619.238.1900  
F. 619.235.0398

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DEL MAR HEIGHTS  
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ORANGE COUNTY  
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March 21, 2022

California State Lands Commission  
100 Howe Avenue, Suite 100  
Sacramento, CA 95825

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

Dear Sir or Madam:

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Rebecca L. Reed

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DEL MAR HEIGHTS  
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SAN DIEGO  
SILICON VALLEY

March 21, 2022

Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, CA 90360

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

Dear Sir or Madam:

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DEL MAR HEIGHTS  
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ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

County of San Diego Air Pollution Control District  
1600 Pacific Highway  
San Diego, CA 92101

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

County of San Diego Planning and Land Use  
5510 Overland Avenue  
San Diego, CA 92123

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

Dear Sir or Madam:

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

County of San Diego Department of Parks and  
Recreation  
5500 Overland Avenue #140  
San Diego, CA 92123

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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Rebecca L. Reed

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DEL MAR HEIGHTS  
LAS VEGAS  
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PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

County of San Diego Department of Public Works  
5500 Overland Avenue #310  
San Diego, CA 92123

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

Dear Sir or Madam:

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

County of San Diego Water Authority  
4677 Overland Avenue  
San Diego, CA 92123

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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Rebecca L. Reed

RLR/amg  
Enclosures



PROCOPIO  
525 B Street  
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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

County of San Diego Department of  
Environmental Health Hazardous Management  
Division  
PO Box 129261  
San Diego, CA 0

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

Dear Sir or Madam:

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

County of San Diego Department of  
Environmental Health Land and Water Quality  
Division  
PO Box 129261  
San Diego, CA 0

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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Rebecca L. Reed

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

City of Chula Vista  
276 Fourth Avenue  
Chula Vista, CA 91910

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

San Diego Association of Governments  
401 B Street, Suite 800  
San Diego, CA 92101

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

San Diego County Regional Airport Authority  
PO Box 82776  
San Diego, CA 92138

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

Dear Sir or Madam:

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

San Diego Transit Corporation  
100 16th Street  
San Diego, CA 92101

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

San Diego Gas and Electric  
PO Box 129831  
San Diego, CA 0

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
PHOENIX  
SAN DIEGO  
SILICON VALLEY

March 21, 2022

Chula Vista School District  
84 J Street  
Chula Vista, CA 91910

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San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
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SAN DIEGO  
SILICON VALLEY

March 21, 2022

San Diego Unified School District  
4100 Normal Street, Annex 12  
San Diego, CA 92103

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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DEL MAR HEIGHTS  
LAS VEGAS  
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SAN DIEGO  
SILICON VALLEY

March 21, 2022

San Ysidro Unified School District  
4350 Otay Mesa Road  
San Diego, CA 92154

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
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SAN DIEGO  
SILICON VALLEY

March 21, 2022

San Diego Community College District  
3375 Camino del Rio South  
San Diego, CA 92108

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
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SAN DIEGO  
SILICON VALLEY

March 21, 2022

Sweetwater Union High School District  
1130 Fifth Avenue  
Chula Vista, CA 91911

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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DEL MAR HEIGHTS  
LAS VEGAS  
ORANGE COUNTY  
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SAN DIEGO  
SILICON VALLEY

March 21, 2022

Otay Mesa Water District  
2554 Sweetwater Springs Blvd.  
Spring Valley, CA 91978

Re: Notice of Action - *Save the Field v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2022-00005335-CU-TT-CTL

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