

1 RACHEL B. HOOPER (State Bar No. 98569)
ERIN B. CHALMERS (State Bar No. 245907)
2 SHUTE, MIHALY & WEINBERGER LLP
396 Hayes Street
3 San Francisco, CA 94102
Telephone: (415) 552-7272
4 Facsimile: (415) 552-5816
Hooper@smwlaw.com
5 Chalmers@smwlaw.com

6 DANIEL P. SELMI (State Bar No. 67481)
919 S. Albany Street
7 Los Angeles, CA 90015
Telephone: (213) 736-1098
8 Facsimile: (949) 675-9861
Dselmi@aol.com

9 MARCO A. GONZALEZ (State Bar No. 190832)
10 COAST LAW GROUP LLP
1140 S. Coast Highway 101
11 Encinitas, CA 92024
Telephone: (760) 942-8505
12 Facsimile: (760) 942-8515
Marco@coastlawgroup.com

13 Attorneys for CLEVELAND NATIONAL
14 FOREST FOUNDATION

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **COUNTY OF SAN DIEGO**

17 **CENTRAL DIVISION**

18 CLEVELAND NATIONAL FOREST
19 FOUNDATION,

20 Petitioner,

21 v.

22 CALIFORNIA DEPARTMENT OF
TRANSPORTATION; and DOES 1
23 through 20, inclusive.

24 Respondents.

Case No.

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

[CCP § 1085 (1094.5); California
Environmental Quality Act ("CEQA")]

1 INTRODUCTION

2 1. This action challenges the decision of the California Department of Transportation
3 (“CalTrans” or “Respondent”) to approve the Interstate 5 North Coast Corridor Project
4 (“Project”) on or about October 31, 2013 and to certify the environmental impact report (“EIR”)
5 for the Project on or about October 23, 2013. The challenged Project involves approval for
6 widening a 27-mile stretch of Interstate 5 (“I-5”) by four lanes, plus auxiliary lanes, beginning in
7 San Diego and extending to the north through Del Mar, Solana Beach, Encinitas, Carlsbad, and
8 Oceanside. CalTrans is the lead agency for purposes of conducting environmental review under
9 the California Environmental Quality Act, Public Resources Code section 21000 et seq.
10 (“CEQA”).

11 2. The Project will add four new “managed lanes” to the freeway—two in each
12 direction—which will effectively expand the size and capacity of this section of I-5 by fifty
13 percent. While the new lanes will be available for carpools, vanpools and busses, they may also
14 be used by single-occupant vehicles for a fee. With this expansion, CalTrans projects that by
15 2030 the number of vehicles on the freeway will rise by approximately fifty percent from
16 current levels, adding an additional 140,000 vehicles per day to some sections of the freeway.

17 3. The Project’s massive increase in traffic will result in a correspondingly large
18 increase in emissions of air pollutants. Because this area already suffers from poor air quality,
19 the Project’s impact on public health will therefore be severe. Unfortunately, rather than
20 analyze the Project’s impacts on public health by conducting a health risk assessment or other
21 similar study, the EIR summarily states that there is no feasible way to analyze such risks. It
22 makes this claim despite the fact that other transportation agencies, including the San Diego
23 Association of Governments (“SANDAG”), have previously stated that it is appropriate and
24 practical to conduct health risk assessments for road projects such as this. The EIR’s failure to
25 analyze the manner in which the Project’s emission of criteria and toxic air contaminants may
26 affect public health is a glaring oversight that leaves the public in the dark as to how, and to
27 what extent, they may be impacted.

1 4. In addition to causing more air pollution, the increased driving from the Project
2 will produce an enormous surge in greenhouse gas emissions as compared to existing
3 conditions. The expanded highway capacity will encourage and induce development in ever
4 more distant regions of San Diego County, forcing residents to endure long commutes and to
5 emit more greenhouse gases. Given that climate science and state policy demand that the state
6 aggressively *reduce* greenhouse gas emissions over the coming decades, this Project takes the
7 region – and the state – in exactly the wrong direction. Rather than address this problem, the
8 EIR does not begin to grapple with the Project’s severe impacts on climate change; instead, it
9 asserts summarily that the Project will actually help reduce greenhouse gas emissions. The
10 EIR’s conclusion is wholly without foundation. The EIR not only fails to measure all types of
11 greenhouse gases, but it also uses legally improper metrics to analyze the significance of the
12 Project’s climate impacts.

13 5. It cannot be seriously disputed that the Project’s increase in highway capacity will
14 facilitate travel – and therefore development – in rural areas in the County. The EIR
15 nevertheless concludes, without any supporting evidence, that the expansion of I-5 will have no
16 effect on patterns of growth in the region. The EIR’s rote conclusions that the Project’s impacts
17 on noise and energy use will be less-than-significant similarly lack any support in the record.

18 6. Respondent’s action in approving the Project violates CEQA and the CEQA
19 Guidelines, Title 14, California Code of Regulations, § 15000 *et seq.* Specifically, Respondent
20 certified an EIR for the Project that fails to adequately analyze or mitigate the Project’s
21 significant individual and cumulative impacts on the environment, including but not limited to
22 the impacts on air quality and human health, climate change, inducement of growth, noise, and
23 energy use.

24 7. For all of these reasons, Respondent’s approval of the Project and certification of
25 the EIR must be rescinded.

26 **PARTIES**

27 8. Petitioner Cleveland National Forest Foundation (“CNFF”) is a nonprofit
28 corporation dedicated to preserving the plants, animals and other natural resources of Southern

1 California mountains by protecting the land and water they need to survive. CNFF is committed
2 to sustainable regional land use planning in San Diego County in order to stem the tide of urban
3 encroachment on wildlands. It is also committed to reducing regional emissions of greenhouse
4 gases by, among other things, promoting transit and smart growth and reducing vehicular travel.
5 Members of CNFF are residents and taxpayers of San Diego County who will be adversely
6 affected by the Project's significant environmental impacts. CNFF and its members also have a
7 direct and beneficial interest in CalTrans' compliance with CEQA and the CEQA Guidelines.
8 These interests will be directly and adversely affected by the Project, which violates provisions
9 of law as set forth in this Petition and which would cause substantial and irreversible harm to the
10 natural environment. The maintenance and prosecution of this action will confer a substantial
11 benefit on the public by protecting the public from the environmental and other harms alleged
12 herein. CNFF submitted written comments to CalTrans objecting to and commenting on the
13 Project and the EIR.

14 9. Respondent CalTrans is an agency in the executive branch of the State of
15 California, operating within the California State Transportation Agency. It operates a multi-
16 modal transportation system across the state, and is responsible for the planning, building and
17 maintenance of that system, including the sections of I-5 located in California.

18 10. Petitioner does not know the true names and capacities, whether individual,
19 corporate, associate or otherwise, of respondents DOE 1 through DOE 20, inclusive, and
20 therefore sue said respondents under fictitious names. Petitioner will amend this Petition to
21 show their true names and capacities when the same have been ascertained. Each of the
22 respondents is the agent and/or employee of Respondent CalTrans, and each performed acts on
23 which this action is based within the course and scope of such respondent's agency and/or
24 employment.

25 JURISDICTION AND VENUE

26 11. This Court has jurisdiction over the matters alleged in this Petition pursuant to
27 Code of Civil Procedure sections 1085 and 1094.5, and Public Resources Code sections 21168,
28 21168.5 and 21168.9.

1 12. Venue is proper in this Court because the causes of action alleged in this Petition
2 arose in San Diego County, where the proposed Project is located, and because the
3 environmental effects of the Project will be felt in San Diego County.

4 13. Petitioner has complied with the requirements of Public Resources Code section
5 21167.5 by serving a written notice of Petitioner's intention to commence this action on
6 Respondent on December 3, 2013. A copy of this written notice and proof of transmission is
7 attached as Exhibit A to this Petition.

8 14. Petitioner is complying with the requirements of Public Resources Code section
9 21167.6 by concurrently filing a notice of its intent to prepare the administrative record for this
10 action.

11 15. Petitioner is sending a copy of the Petition to the California Attorney General
12 concurrently with filing, thereby complying with the requirements of Public Resources Code
13 section 21167.7. A copy of this written notice is attached hereto as Exhibit B.

14 16. Petitioner has performed any and all conditions precedent to filing this instant
15 action and has exhausted any and all available administrative remedies to the extent required by
16 law.

17 17. Petitioner has no plain, speedy or adequate remedy in the course of ordinary law
18 unless this Court grants the requested writ of mandate to require Respondent to set aside its
19 approval of the Project. In the absence of such remedies, Respondent's approval will remain in
20 effect in violation of State law.

21 STATEMENT OF FACTS

22 Environmental Review and Project Approval

23 18. On or about October 20, 2004, CalTrans filed a Notice of Preparation of a Draft
24 Environmental Impact Report for the Project ("NOP").

25 19. On or about July 9, 2010, CalTrans circulated a draft environmental impact report
26 ("DEIR") for the Project.

27 20. In a letter dated November 18, 2010, Petitioner criticized the DEIR and requested
28 that it include more information to help the public understand the Project's true impacts.

1 Among other criticisms, Petitioner faulted Caltrans' business-as-usual approach to expanding
2 the region's auto-based transportation network. Noting that market forces have shifted over the
3 past several years, with more and more people choosing to live in urban areas, Petitioner
4 explained that expanding I-5 is the wrong approach to solving the region's transportation
5 problems. Petitioner specifically criticized the DEIR's failure to consider any alternatives to
6 meeting the region's mobility needs other than widening the freeway, and it requested that
7 CalTrans seriously consider options such as pricing general-purpose lanes, improving local
8 streets, prioritizing transit over highway expansion, and adopting aggressive transportation
9 demand measures. In addition, Petitioner submitted a detailed critique of the DEIR by traffic
10 expert Smart Mobility, which demonstrated that expanding highway capacity causes "induced
11 traffic," thereby increasing vehicle-miles traveled and greenhouse gas emissions. The study
12 noted that the DEIR did not properly account for the Project's induced demand when it analyzed
13 the Project's impacts on traffic, air pollution, inducement of growth and other relevant issues.

14 21. Other organizations submitted comments that echoed Petitioner's concerns and
15 addressed other flaws in the DEIR. For example, the group PLAGUE submitted a letter dated
16 November 18, 2010, noting that the DEIR used a legally improper baseline against which it
17 measured the Project's climate impacts. As PLAGUE explained, the DEIR thus erred in
18 crediting the Project with reducing greenhouse gas emissions and finding that the Project would
19 not have significant climate-related impacts. In fact, future emissions of greenhouse gases with
20 the Project will be substantially higher than existing emissions, which constitutes a significant
21 impact. Likewise, PLAGUE commented that the DEIR's analysis of air quality impacts and
22 resultant health risks was legally inadequate. The group requested that CalTrans undertake a
23 health risk assessment to analyze the Project's risks, and submitted studies demonstrating how
24 such assessments could be carried out. PLAGUE also criticized the DEIR's noise, growth-
25 inducing and other impact analyses. In particular, it questioned the DEIR's conclusion that the
26 Project will not cause any new vehicle trips or induce growth in undeveloped localities. This
27 conclusion was not supported by credible evidence, and in fact was contradicted by evidence

1 that PLAGUE and Petitioner submitted to CalTrans. PLAGUE also criticized the DEIR's
2 failure to analyze all feasible mitigation for the Project's many significant impacts.

3 22. Several public agencies also criticized the DEIR on these and other grounds. For
4 example, the U.S. Department of the Interior submitted a letter dated September 30, 2010 in
5 which it criticized the document's scant analysis of greenhouse gas emissions, and directed
6 CalTrans to consider federal guidance on how to conduct a proper analysis of climate impacts.
7 The California Coastal Commission similarly criticized the DEIR's inadequate analysis of
8 greenhouse gas emissions, and in particular disputed the document's failure to analyze
9 emissions and energy use from induced growth. In a letter dated November 22, 2010, the
10 Coastal Commission also listed various mitigation measures that CalTrans should adopt to
11 lessen the significant impacts of the Project's greenhouse gas emissions. For its part, the Carmel
12 Valley Community Planning Board submitted a comment letter dated October 28, 2010 in which
13 it excoriated CalTrans for planning a massive project focused on the personal automobile
14 instead of promoting other forms of transit. It also disagreed with CalTrans' unsupported
15 assertion that the Project would not induce growth or cause increased vehicle trips, and cited a
16 study showing that "increases in road space or traffic signal control systems that smooth traffic
17 flow tend to induce additional vehicle traffic which quickly diminish any initial emission
18 reduction benefits." Likewise, the state Department of Toxic Substances Control commented in
19 a letter dated August 5, 2010 that CalTrans should conduct a health risk assessment to ensure
20 that construction activities protect public health. In all, CalTrans received more than 5,000
21 comments on the DEIR from concerned agencies and members of the public.

22 23. In partial response to these comments, CalTrans issued a supplemental draft
23 environmental impact report ("SDEIR") for the Project in August, 2012. The SDEIR added
24 information regarding: (1) specifics of bridge design for various lagoon crossings, (2) the
25 Project's impacts on lagoon health and water quality, (3) community enhancement projects at
26 lagoons, (4) air quality conformity, and (5) impacts of sea level rise. The SDEIR did not
27 provide more information to address Petitioner and others' concerns related to the Project's
28 severe impacts on air quality, climate change, growth inducement and other areas.

1 24. CalTrans certified the final environmental impact report (“FEIR”) on or about
2 October 23, 2013. According to the Notice of Determination, which was filed on or about
3 November 5, 2013, the agency formally approved the Project on October 31, 2013. However,
4 CalTrans did not release the FEIR to the public until November 1, 2013, *after* it had certified the
5 EIR and approved the Project. Accordingly, CalTrans did not provide the public with any
6 opportunity to comment on the FEIR before Project approval. Regrettably, the FEIR failed to
7 adequately address many of the issues on which Petitioner and others had commented. In
8 particular, the FEIR still lacked adequate analyses of the Project’s air quality, climate, growth-
9 inducing and noise impacts, continued to use an improper baseline against which to measure
10 Project impacts, and failed to include all feasible mitigation for significant Project impacts.

11 **CAUSE OF ACTION**

12 **(Violations of CEQA: Pub. Res. Code §§ 21000, et seq.)**

13 25. Petitioner hereby realleges and incorporates the allegations set forth in each of the
14 paragraphs above.

15 26. CEQA requires the lead agency for a project with the potential to cause significant
16 environmental impacts to prepare an EIR that complies with the requirements of the statute,
17 including but not limited to the requirement to analyze the project’s potentially significant
18 environmental impacts. The EIR must provide sufficient environmental analysis such that the
19 decision-makers can intelligently consider environmental consequences when acting on the
20 proposed project.

21 27. CEQA also mandates that the lead agency identify and adopt feasible mitigation
22 measures that will reduce or avoid all of a project’s significant environmental impacts. If any of
23 the project’s significant impacts cannot be mitigated to a less than significant level, then CEQA
24 bars the lead agency from approving the project if a feasible alternative is available that would
25 meet the project’s objectives while avoiding or reducing its significant environmental impacts.
26 If there is an environmentally superior alternative, the lead agency must either select that
27 alternative instead of the project or make formal findings, supported by substantial evidence,
28 that the alternative is infeasible.

1 28. Respondent violated CEQA by certifying an EIR for the Project that is inadequate
2 and fails to comply with the requirements of CEQA and the CEQA Guidelines in numerous
3 respects. For example:

4 a. The EIR fails to adequately analyze and mitigate the Project's significant
5 individual and cumulative air quality impacts, including impacts to the health and welfare of
6 residents and employees who live and work adjacent to I-5. In particular, the EIR:

7 i. uses an improper baseline against which it calculates air quality
8 impacts and measures health risks. The EIR improperly credits the Project with reducing
9 emissions by erroneously comparing emissions in 2030 with the Project to hypothetical future
10 emissions in 2030 without the Project, instead of comparing the Project's emissions to current
11 baseline conditions. In addition, the EIR's predicted 2030 conditions without the Project are not
12 supported by substantial evidence; because they overstate likely future emissions, the EIR's
13 analysis artificially minimizes the Project's actual air quality impacts.

14 ii. fails to conduct a health risk assessment that analyzes risks to nearby
15 residents, schoolchildren and employees from the Project's emission of criteria and toxic air
16 contaminants. While the EIR asserts that there are no valid methods for conducting such
17 analysis, this conclusion is not supported by substantial evidence. To the contrary, members of
18 the public submitted studies and documentation demonstrating that it is possible and practicable
19 to conduct a health risk assessment, and that agencies routinely do so for road projects.
20 CalTrans unlawfully failed to adequately respond to these comments, including comments from
21 experts, with any evidence or analysis to the contrary. Notably, when SANDAG recently
22 prepared and certified its EIR for the 2050 Regional Transportation Plan ("RTP"), it indicated
23 that health risk assessments could and would be performed during project-level environmental
24 review for implementing transportation projects listed in the RTP. This Project is an
25 implementing project that is included in the RTP; however, CalTrans refused to conduct the
26 promised health risk assessment.

27 iii. fails to adopt all feasible mitigation to minimize the Project's
28 significant air quality and health impacts.

1 iv. underestimates Project emissions because it assumes, without
2 substantial evidence, that the Project will not cause any new vehicle trips.

3 b. The EIR fails to provide an adequate analysis of, and mitigation for, the
4 Project's individual and cumulative greenhouse gas and climate change impacts. In particular,
5 the EIR:

6 i. uses an incorrect baseline against which it calculates climate
7 impacts. Instead of comparing the Project's greenhouse gas emissions to current baseline
8 conditions, the EIR compares them to hypothetical future conditions, in 2030. The California
9 Supreme Court recently rejected this approach, holding that agencies must measure the
10 significance of a project's impacts against existing baseline conditions unless the agency
11 provides substantial evidence demonstrating that doing so would be misleading or without
12 informational value. *Neighbors for Smart Rail v. Exposition Metro Line Const. Authority* (2013)
13 57 Cal.4th 439, 445. CalTrans has provided no such evidence here. If it had used a proper
14 baseline, the EIR would have disclosed that the Project will cause significant climate-related
15 impacts, and CalTrans would have been required to adopt all feasible mitigation measures and
16 make statements of overriding consideration. In addition, the EIR's predicted 2030 conditions
17 without the Project are not supported by substantial evidence; because they overstate likely
18 future greenhouse gas emissions, the EIR's analysis artificially minimizes the Project's actual
19 climate impacts.

20 ii. fails to analyze and disclose the Project's emission of greenhouse
21 gases other than carbon dioxide. For example, vehicle exhaust contains nitrous oxide, which is
22 300 times more potent than carbon dioxide in terms of its ability to warm the planet. As a result
23 of this oversight, the EIR substantially underestimates the Project's climate-related impacts.

24 iii. lacks substantial evidence to support its conclusion that the Project
25 will reduce greenhouse gas emissions. This conclusion is based largely on CalTrans'
26 unsupported assumption that significantly widening a major freeway will cause no new vehicle
27 trips. Rebutting CalTrans' erroneous assumption, members of the public submitted expert
28

1 reports demonstrating that widening I-5 *will* cause more vehicle trips and associated emissions.
2 CalTrans unlawfully failed to reply to this expert evidence with any contrary evidence.

3 iv. lacks substantial evidence to support its conclusion that the Project
4 will have less than significant climate-related impacts. Even if the EIR were correct that the
5 Project will cause greenhouse gas emissions to remain essentially stable compared to the
6 scenario without the Project, this fact does not support the conclusion that the Project's
7 emissions are not significant. In order to avert the most catastrophic impacts of climate change,
8 the state must *reduce* its greenhouse gas emissions to at least 80 percent below 1990 levels by
9 2050. This aggressive reduction schedule is supported by science and embedded in state policy,
10 including Executive Order S-3-05 and the Scoping Plan for Assembly Bill 32. The EIR's failure
11 to measure the Project's emission of greenhouse gases against these relevant, long-term climate
12 targets violates CEQA. If it had done so, the EIR would have disclosed that the Project's
13 emission of greenhouse gases—even if they did not represent a sharp increase in emissions—
14 was significant.

15 v. fails to contain a legally adequate cumulative impact analysis for
16 greenhouse gases. Instead of conducting an adequate analysis, the EIR relies on prior
17 environmental review that SANDAG conducted for the 2050 RTP. However, the RTP's
18 analysis of climate impacts was legally inadequate, as the San Diego Superior Court found in a
19 judgment issued in December 2012. Accordingly, CalTrans may not rely on the RTP's climate
20 impacts analysis to excuse its own lack of analysis.

21 vi. fails to contain all feasible mitigation to reduce the Project's
22 greenhouse gas emissions.

23 c. The EIR fails to provide adequate analysis of, and mitigation for, the
24 Project's growth-inducing impacts. To begin with, the EIR uses an artificially constrained study
25 area to conduct its analysis, thus overlooking the Project's effect on sprawl development in the
26 County's more distant rural areas. The EIR also fails to support with substantial evidence its
27 assumption that widening the I-5 will not induce growth. Members of the public submitted
28 expert reports documenting how road projects generate growth, but CalTrans failed to

1 adequately respond to, or rebut, this evidence. Because the Project will induce growth in at least
2 some areas of the region, CalTrans was required to analyze the secondary effects of this growth
3 on farmland, biological resources and other relevant impact areas. The EIR's failure to analyze
4 this and other environmental impacts resulting from the Project's inducement of growth violates
5 CEQA.

6 d. The EIR fails to provide an adequate analysis of, and mitigation for, the
7 Project's construction-related and operational noise impacts, and its conclusions regarding noise
8 impacts are unsupported by substantial evidence. In particular, the EIR:

9 i. is confusing and contradictory regarding whether the Project will
10 result in significant noise impacts. In numerous locations, the EIR discloses that the Project will
11 expose certain individual homes and other "sensitive receptors" to significant noise increases.
12 Yet the EIR goes on to conclude that the Project overall will not have significant noise-related
13 impacts. Such contradictory analysis does not allow informed decision-making.

14 ii. does not support with substantial evidence its conclusion that
15 construction-related impacts will be less than significant. Contrary to the EIR's bald conclusion,
16 the temporary nature of the construction-related impacts does not automatically render the
17 impacts insignificant.

18 iii. fails to separately analyze the significance of the Project's noise at
19 nighttime. Given that construction, including pile-driving and other extremely loud activities,
20 will occur at night, the EIR must analyze the significance of this noise on sleep patterns; it may
21 not simply analyze average noise levels over the course of a day. Similarly, the EIR may not
22 ignore single-noise events such as from pile-driving.

23 iv. fails to adopt all feasible mitigation and fails to demonstrate that
24 quiet pavement and other mitigation suggested by Petitioner and others are infeasible.

25 e. The EIR fails to provide an adequate analysis of, and mitigation for, the
26 Project's energy impacts. As in its analysis of other impact areas, the EIR again assumes that
27 the Project will not cause any new vehicle trips. Based on this unsupported assumption, it
28 concludes that the Project will not have any significant energy-related impacts. It also

1 summarily concludes, without substantial supporting evidence, that construction-related energy
2 impacts will be more than offset by the alleged energy benefits of the Project. Finally, the EIR
3 again uses an improper, future baseline that artificially minimizes the Project's apparent
4 impacts.

5 29. As a result of the foregoing defects, Respondent prejudicially abused its discretion
6 by certifying an EIR that does not comply with the requirements of CEQA. As such,
7 Respondent's certification of the EIR and approval of the Project must be set aside.

8 **PRAYER FOR RELIEF**

9 1. For alternative and peremptory writs of mandate directing Respondent to vacate
10 and set aside its approval of the Project and its certification of the EIR for the Project;

11 2. For alternative and peremptory writs of mandate directing Respondent to comply
12 with CEQA and the CEQA Guidelines, and to take any other action required by Public
13 Resources Code section 21168.9 or as otherwise required by law;

14 3. For a stay, and preliminary and permanent injunctions restraining Respondent and
15 its agents, employees, officers and representatives from undertaking any activity to implement
16 the Project pending full compliance with the requirements of CEQA and the CEQA Guidelines;

17 4. For costs of the suit;

18 5. For attorneys' fees as authorized by Code of Civil Procedure section 1021.5 and
19 other provisions of law; and

20 6. For such other and further relief as the Court deems just and proper.

21 DATED: December 4, 2013

SHUTE, MIHALY & WEINBERGER LLP

22
23 By: 
24 _____
RACHEL B. HOOPER

25
26 Attorneys for CLEVELAND NATIONAL
FOREST FOUNDATION

27 550145.4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, Duncan McFetridge, am the Executive Director of the Cleveland National Forest Foundation, the Petitioner in this action, and I am authorized to execute this verification on Petitioner's behalf. I have read the foregoing Petition for Writ of Mandate and Complaint for Injunctive Relief ("Petition"). I am familiar with the contents of the Petition. All facts alleged in the above Petition, not otherwise supported by exhibits or other documents, are true of my own knowledge, except as to matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed at Decoruga, California on December 4, 2013.

Duncan McFetridge

549773.1

EXHIBIT A

SHUTE, MIHALY
& WEINBERGER LLP

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

RACHEL B. HOOPER
Attorney
hooper@smwlaw.com

December 3, 2013

Via E-Mail and U.S. Mail

Shay Lynn M. Harrison
California Department of Transportation
District 11
4050 Taylor Street, M.S. 242
San Diego, CA 92110
shay.lynn.harrison@dot.ca.gov

Re: Cleveland National Forest Foundation v. California Department of
Transportation

Dear Ms. Harrison:

This letter is to notify you that the Cleveland National Forest Foundation will file suit against the California Department of Transportation ("CalTrans") for failure to observe the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 et seq., and the CEQA Guidelines, California Code of Regulations section 15000 et seq., in the administrative process that culminated in CalTrans's decision to approve the Interstate 5 North Coast Corridor Project ("Project") on October 31, 2013, and certify the Final Environmental Impact Report for the Project on October 23, 2013. This notice is given pursuant to Public Resources Code section 21167.5.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Rachel B. Hooper

California Department of Transportation
December 3, 2013
Page 2

PROOF OF SERVICE

Cleveland National Forest Foundation v. California Department of Transportation

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

On December 3, 2013, I served true copies of the following document(s) described as:

NOTICE OF INTENT TO SUE LETTER, DATED DECEMBER 3, 2013

on the parties in this action as follows:

SEE ATTACHED SERVICE LIST

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

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

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

Executed on December 3, 2013, at San Francisco, California.


Sean P. Mulligan

California Department of Transportation
December 3, 2013
Page 3

SERVICE LIST
Cleveland National Forest Foundation v. California Department of Transportation

Shay Lynn M. Harrison
California Department of Transportation
District 11
4050 Taylor Street, M.S. 242
San Diego, CA 92110
shay.lynn.harrison@dot.ca.gov

EXHIBIT B

SHUTE, MIHALY
& WEINBERGER LLP

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

RACHEL B. HOOPER
Attorney
hooper@smwlaw.com

December 4, 2013

Via U.S. Mail

Attorney General Kamala Harris
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

Re: Cleveland National Forest Foundation v. California Department of
Transportation

Dear Attorney General Harris:

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

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Rachel B. Hooper

Enclosure

549989.1