Electronically FILED by	Superior Court of California, County of Los Angeles on 12/16/2019 08:16 PM Sh	erri R. Carter, Executive Officer/Clerk of Court, by C. Coleman, Deputy Clerk		
1	Sabrina D. Venskus (SBN 219153)			
2	VENSKUS & ASSOCIATES, A.P.C. 1055 Wilshire Boulevard, Suite 1996			
3	Los Angeles, California 90017 Telephone: (213) 482-4200			
4	Facsimile: (213) 482-4246			
5	Attorneys for Plaintiff and Petitioner,			
6	The Samuel Lawrence Foundation			
7	SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES			
8				
9	THE SAMUEL LAWRENCE)FOUNDATION, a California Non-Profit)	CASE NO.: 198TCP05431		
10	Public Benefit Corporation, )	VERIFIED PETITION FOR WRIT OF		
11	) Plaintiff and Petitioner, )	MANDATE AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY		
12	vs. )	RELIEF		
13	CALIFORNIA COASTAL COMMISSION,	(C.C.P. § 1094.5)		
14	an agency of the State of California and ) DOES 1 through 20, inclusive, )			
15	) Defendants and Respondents. )			
16				
17	SOUTHERN CALIFORNIA EDISON, SAN ) DIEGO GAS & ELECTRIC COMPANY, )			
18	CITY OF RIVERSIDE, CITY OF ANAHEIM, )			
	and ROES 1 through 20, inclusive, )			
19	Real Parties in Interest.			
20	)			
21				
22				
23				
24				
25				
26				
27				
28				
_3	1			
	VERIFIED PETITION FOR WRIT OF MANDATE A DECLRATORY			

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

### TO THE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Plaintiff and Petitioner, The Samuel Lawrence Foundation (hereinafter "Petitioner" or "SLF") respectfully petitions this Court for a Writ of Mandate, under Code of Civil Procedure § 1094.5, directed to Defendant and Respondent, California Coastal Commission ("Respondent" or "CCC"), an agency of the State of California and alleges as follows:

### THE PARTIES

1. Petitioner, SLF, is a California Non-Profit Public Benefit Corporation that advocates for nuclear safety and for the responsible closure of the San Onofre Nuclear Generating Station ("SONGS"). SLF advocates on behalf of itself and its members who reside, own property or work in the Coastal Zone in which SONGS and its waste storage site(s) are located.

2. Respondent, California Coastal Commission (hereinafter "Commission") is an agency of the State of California charged with the administration of the California Coastal Act, Public Resources Code 30000, et seq. (hereinafter "Coastal Act").

3. Real Party In Interest, Southern California Edison, (hereinafter "SCE") is a California Corporation and utility. SCE is the majority owner of SONGS.

4. Real Party In Interest, Pacific Gas & Electric Company, is a California Corporation and utility. Pacific Gas & Electric Company is a minority owner of SONGS.

5. Real Party In Interest, City of Riverside, is a municipal corporation and charter city in California. The City of Riverside is a minority owner of SONGS.

6. Real Party in Interest, City of Anaheim, is a municipal corporation and charter city in California. The City of Anaheim is a former minority owner of SONGS but a co-applicant of the CDP challenged in this case.

7. Petitioner is ignorant of the true names and capacities of Respondents or other
Real Parties in Interest sued herein as DOES 1 through 20, inclusive, and ROES 1 through
20, inclusive, and, therefore, sue these individuals and/or entities by such fictitious names.
Petitioner will amend this petition to allege the true names and capacities of fictitiously

named parties when ascertained. Petitioner is informed and believe and thereon allege that each party designated herein as a DOE and/or a ROE is responsible for the events and happenings alleged in this petition or has a beneficial interest in the discretionary actions challenged herein.

8. Petitioner is informed, believes and thereon alleges that at all times herein mentioned, Respondents or other Real Parties in Interest, and each of them, were the agents, servants, employees, partners, and alter egos of the remaining Respondents or other Real Parties in Interest, that the acts complained of herein were done within the course and scope of said agency, service, employment, and partnership, and that the acts by each Respondent or other Real Party in Interest were ratified, approved, and adopted by each of the remaining Respondents or other Real Parties in Interest. Whenever the terms "Respondent," or "Real Parties in Interest" is used herein, it shall mean "Respondents and/or other Real Parties in Interest, and each of them."

#### JURISDICTION AND VENUE

9. Jurisdiction over the Respondent and Real Parties in Interest, and each of them, exists because each Respondent and Real Parties in Interest named in this litigation are present and operating within the jurisdictional limits of the County of Los Angeles or do business within the County of Los Angeles and/or in California.

10. Jurisdiction over the subject matter of this lawsuit exits because Petitioner's claim arises under California state law and it is not one of the types of cases listed as a limited civil case in Civil Code §§ 85 or 86.

11. Venue is properly before this court in this action, pursuant to California Code of Civil Procedure Section 401(1), because the Coastal Act gives the right for anyone to maintain an action against the Commission. Thus, it permits the commencement of an action under the Act in the County of Sacramento. Accordingly, this action may be maintained in any city in which the Attorney General maintains an office. The Attorney General maintains an office in the City of Los Angeles. Therefore, venue is properly situated in Los Angeles.

12. Petitioner, its members and as well as members of the general public, will suffer irreparable harm if the relief requested herein is not granted and the Project is commenced based upon the current approval of the Coastal Commission.

13. Petitioner has exhausted its administrative remedies and has no further remedybut to seek judicial relief.

14. Petitioner has no plain, speedy or adequate remedy available to it in the ordinary course of law to redress the claims alleged in this petition.

### STATEMENT OF FACTS

15. Southern California Edison ("SCE") is the majority owner of the San Onofre
Nuclear Generating Station ("SONGS") located in San Diego County, approximately 50
miles northwest of San Diego and approximately 2 miles south-southeast of San Clemente,
Orange County. Power generation at Units 2 and 3 ceased in 2012, and SCE announced plans
to decommission Units 2 and 3 in 2013.

16. On or about May 7, 2019, as part of the decommissioning effort, SCE filed Application 9-19-0194 with the California Coastal Commission ("CCC" or "Commission") for a Coastal Development Permit ("CDP") to decontaminate, dismantle, and remove certain above- and below-grade facilities and structures associated with Units 2 and 3 of SONGS ("project").

17. In their September 26, 2019 Staff Report on the Application, Commission
staff concluded that the project would be consistent with the hazards, marine resources, water
quality, view protection, cultural resources, and other relevant policies of the Coastal Act,
relying on 18 special permit conditions to support its conclusion.

18. Commission staff recommended the approval of the permit application with
the enumerated special conditions. On October 11, 2019, Petitioner submitted its public
comment letter detailing why the permit must be denied. The comment letter was supported
by over 1600 pages of evidence and the declarations of two Ph.D.s.

1 19. On October 17, 2019, a hearing on application 9-19-0194 occurred before the
 2 Commission. On October 17, 2019 the Commission took final action and approved permit
 3 application 9-19-0194, with conditions.

20. Petitioner now files this lawsuit challenging the Commission's approval of the CDP.

# 6 7

19

20

21

22

4

5

### **REGULATORY BACKGROUND**

21. Development within the Coastal Zone in California is governed by the 8 California Coastal Act and administered by the Coastal Commission ("Commission"). Under 9 the Coastal Act, "development" is broadly defined. Coastal Act Section 30106 provides, in 10 relevant part: "Development' means, on land, in or under water, the placement or erection of 11 any solid material or structure; discharge or disposal of any dredged material or of any 12 gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction 13 of any materials; change in the density or intensity of use of land, including, but not limited 14 15 to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the 16 Government Code), and any other division of land Coastal Act." Any activity that changes 17 the intensity of use is "development" as defined by the Coastal Act, and therefore may not be 18 undertaken unless authorized by a CDP.

22. Coastal Act Section 30009 requires that the Commission liberally construe the Coastal Act's standards to achieve the Act's purposes and objectives (Pub. Resources Code, § 30009). Included within the standards is a requirement the Commission find a proposed project is consistent with Chapter 3 of the Coastal Act.

23 23. Section 13096 of the Commission's administrative regulations requires
24 Commission approval of coastal development permit applications to be supported by a
25 finding showing the application, as modified by any conditions of approval, to also be
26 consistent with any applicable requirements of the California Environmental Quality Act
27 ("CEQA"). Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed

development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. In this regard, the Commission is required, among other things, to disapprove of a project if alternatives or feasible environmental mitigation measures are available (Pub. Resources Code, § 21080.5, subd. (d)(2)(A))

6 24. Coastal Act Section 30250 provides that the Commission must consider the
7 individual and cumulative impact of development on coastal resources. The coastal resources
8 affected by the proposed project will include the San Onofre state beach and campground,
9 the resources at Marine Corps Base Camp Pendleton, aquifers below grade, and large swaths
10 of terrestrial ecology.

25. In turn, Coastal Act Section 30105.5 explains the terms "cumulatively" or "cumulative effect" to mean "the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

26. Coastal Act Section 30251 provides: "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas."

1

2

3

4

5

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

27. Coastal Act Section 30253 states, in relevant part, that the Project shall:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

28. The Commission's regulations also require that decisions relating to permit applications be accompanied by findings of fact and reasoning supporting the decision. (14 CCR § 13096.) Moreover, pivotal findings in the Staff Report must be supported by the evidence. (See *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515 [the agency which renders a decision must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision].)

# **FIRST CAUSE OF ACTION**

# (Violation of the Coastal Act; Error and Abuse of Discretion)

29. Petitioner realleges and incorporates herein by reference the allegations of the preceding paragraphs inclusive, of this petition and complaint.

30. The Commission has erred by proceeding without, or in excess of, jurisdiction by violating its own regulations and the provisions of the Coastal Act in issuing the CDP for the project. The Commission has also abused its discretion in failing to proceed in a manner required by its own regulations and the Coastal Act.

31. The Commission has also abused its discretion because its decision to approve the CDP was not supported by the findings and the findings were not supported by the evidence.

32. The Commission has also abused its discretion because in approving the CDP, it relied on conditions that improperly deferred analysis and risk of the project. Furthermore, the project violates the Coastal Act because it is inconsistent with Chapter 3 of said Act. The project maximizes risks to life and property and threatens geologic stability along the bluffs. It would also effectively nullify a pre-existing permit condition issued for application 09-15-0028. The Commission has also failed to address or completely address seismic and tsunami risks. The Commission has failed to consider significant adverse cumulative impacts by deferring said analysis to a future permit amendment. The Commission has also improperly deferred analysis of the project's visual and scenic resource impacts.

33. The Commission did not address or adequately considered the substantial

1	evidence provided by the Petitioner demonstrating the Project is not consistent with Chapter		
2	3 of the Coastal Act.		
3	PRAYER FOR RELIEF		
4	WHEREFORE, Petitioner prays for judgment in its favor as follows:		
5	1. That this Court issue a Writ of Mandamus directing the Coastal Commission		
6	to set aside its approval of the CDP and remanding the permit application back to the		
7	Commission for a decision consistent with this Court's ruling on the merits;		
8	2. For a temporary restraining order, and preliminary and permanent injunctions		
9	enjoining further development under the permit until this action can be decided on the merits;		
10	3. For costs of suit; and		
11	4. For such other and further relief as the Court may deem just and proper.		
12			
13	Dated: Dece	mber 16, 2019	Respectfully Submitted,
14			
15			Sala Vinne
16			Sabrina D. Venskus Attorney for Petitioners
17			Automey for retutioners
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
			8
	VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE AND DECLRATORY RELIEF		

А.

1I

DECLRATORY RELIEF

1	VERIFICATION			
2	I, Sabrina Venskus, declare:			
3	I am an attorney at law duly admitted and licensed to practice before all courts of this State.			
4	I am the attorney of record for The Samuel Lawrence Foundation (Petitioner) in the			
5	above-entitled action.			
6	Petitioner's representatives are unavailable at this time to verify this pleading and for			
7	that reason I am making this verification on their behalf.			
8	I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE			
9	AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF and know			
10	the contents thereof.			
11	I am informed and believe that the matters stated therein are true, and, on that ground,			
12	I allege that the matters stated therein are true.			
	Executed on December 16, 2019 at Ojai, California.			
13	I declare under penalty of perjury under the laws of the State of California that the			
14	foregoing is true and correct.			
15				
16	Salur Vull			
17	Saorina venskus			
18				
19				
20				
21				
22				
23				
23 24				
25				
26				
27				
28				
	9			
	VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE AND			