



The Campaign for Sensible Transportation

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CFST Files Lawsuit Challenging Highway Widening

The Campaign for Sensible Transportation (CFST) filed a lawsuit today in Sacramento challenging the \$22 million widening of Highway 1 between Soquel Drive and Morrissey Boulevard. Caltrans has approved the so-called Auxiliary Lane Project, claiming that no environmental damage would be caused by the widening. CFST is represented by attorney Stephan Volker of Oakland, CA. Our Verified Petition and Complaint is appended.

“It is time to stop these serial widening projects until a complete environmental study is done, with full analyses of greenhouse gas emissions, visual and noise impacts and full consideration of alternatives that are less harmful to our environment and to our future,” asserted Paul Elerick, chairperson of the CFST. “This one-mile multi-million dollar boondoggle not only fails to plan for a sustainable transportation future, but is actually part of the eight-lane Caltrans project to widen Highway 1 from Santa Cruz to La Selva Beach.”

The Soquel/Morrissey widening project would nearly double the width of the roadcut at the La Fonda crossing, so as to accommodate eight lanes for the proposed HOV Lane Widening Project before the EIR now being prepared for that project has been completed. This action is a flagrant violation of the California Environmental Quality Act (CEQA).

It is time to stop the piecemeal widening of Highway 1, which began with the “Merge Lanes” project from the Fishhook to Morrissey Avenue. The still denuded widening created the bottleneck just south of Morrissey, which Caltrans now wants to “fix” with another segment of widening. The bottleneck will simply be moved again, and congestion will not be reduced.

The proposed project does not fix the real problems of the Morrissey-Highway 1 interchange, does not provide a sidewalk on the Soquel Drive overpass, does not include a bike/pedestrian crossing at Trevethan, and lengthens the La Fonda overcrossing to accommodate a future eight-lane highway with only minor bike and pedestrian improvements. It is a bandaid, not a solution.

Caltrans admits that “most of the trees within the Caltrans right-of-way would be removed”. Four acres of existing vegetation, including many native Coast Live Oak trees, would be replaced by asphalt, sound walls, retaining walls, vines, shrubs and a few trees.

Elerick concluded, “We expect our public officials to provide more than lip service to reducing greenhouse gas emissions. Transportation accounts for 51 percent of greenhouse gas emissions produced in the City of Santa Cruz. Despite goals to reduce greenhouse gas emissions, they are rising. We expect our tax monies to be spent on real transportation solutions that create a brighter future for us and our children, not to enable more emissions and speed up global warming. Our lawsuit is filed on behalf of our children, the community, and Planet Earth.”

The Campaign for Sensible Transportation is dedicated to promoting an effective transportation system that makes it easier to get around and decreases the stress and frustration of driving, without causing increased air and noise pollution and without degrading the aesthetic quality of our surroundings.

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PETER SCOTT, PAUL ELERICK, and JEAN BROCKLEBANK
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SACRAMENTO

10 CAMPAIGN FOR SENSIBLE)
TRANSPORTATION, PETER SCOTT, PAUL)
11 ELERICK and JEAN BROCKLEBANK,)

12 Petitioners and Plaintiffs,)

13 v.)

14 RANDELL IWASAKI, Director of California)
Department of Transportation, RICHARD)
15 KRUMHOLZ, District 5 Director of California)
Department of Transportation, JENNIFER H.)
16 TAYLOR, Office Chief, Central Region)
Environmental South of California Department of)
17 Transportation, CALIFORNIA DEPARTMENT OF)
TRANSPORTATION (“Caltrans”), and DOES)
18 I-XX,)

19 Respondents and Defendants, and)

20 DOES XXI-XXX,)

21 Real Parties in Interest.)
22

Civ. No.

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

23 By this Verified Petition, petitioners allege as follows:

24 **SUMMARY OF PETITION AND RELIEF SOUGHT**

25 1. This lawsuit seeks to curb unnecessary increases in greenhouse gas emissions and the
26 global warming they cause by compelling respondents to examine the cumulative effects of an improperly
27 segmented highway widening project in an environmental impact report (“EIR”) as required by the
28 California Environmental Quality Act (“CEQA”), Public Resources Code (“PRC”) section 21000 *et seq.*

1 The interests of not just petitioners, but all Californians, are harmed by respondents' approval of this
2 unnecessary and inadequately reviewed highway widening project, by the consequent induced motor
3 vehicle trips and increased vehicle miles traveled, by the degradation of the human and natural
4 environment in Santa Cruz County, and by respondents' failure to instead invest in a transportation future
5 which will most efficiently reduce climate-altering greenhouse gases, as required by Health and Safety
6 Code sections 38500-38599 ("AB 32"), which mandate reductions in greenhouse gases to 1990 levels by
7 2020; PRC sections 21083.05 and 21097 ("SB 97"), which require CEQA analysis of greenhouse gas
8 emissions; and Executive Order 5-3-05, which requires that greenhouse gases be reduced to 2000 levels
9 by 2010, 1990 levels by 2020, and 80 percent below 1990 levels by 2050.

10 2. Petitioners/plaintiffs Campaign for Sensible Transportation ("CFST"), Peter Scott, Paul
11 Elerick, and Jean Brocklebank ask this Court to protect not just Santa Cruz County, but all citizens of this
12 state, from the harmful effects of the proposed Highway 1 Soquel to Morrissey Auxiliary Lanes Project
13 ("the Auxiliary Lanes Project" or "Project"). The Auxiliary Lanes Project is one of three segments of a
14 highway widening project proposed by respondents Randell Iwasaki, *et al.* (collectively, "Caltrans") to
15 expand Highway 1 from its junction with Highway 17 in the City of Santa Cruz south approximately nine
16 miles through urban and suburban areas of Santa Cruz County to the San Andreas Road exit. Most of
17 that length would expand from four lanes to eight lanes wide, including auxiliary lanes.

18 3. The first segment, which was completed in November of 2008, was the Highway 1/17
19 Merge Lanes Project ("Merge Lanes Project"), which added three auxiliary lanes at the interchange of
20 Highways 1 and 17, widened, replaced and constructed new bridge structures, destroyed and removed
21 extensive stands of mature trees and shrubs, greatly expanded steeply graded cut slopes, and constructed
22 massive hardscapes of pavement, soundwalls, and retaining walls. The Merge Lanes Project abuts the
23 Auxiliary Lanes Project, which is located immediately south of the Merge Lanes Project.

24 4. The second segment is the Auxiliary Lanes Project, which will add one auxiliary lane in
25 each direction on Highway 1 between the Soquel Avenue and Morrissey Boulevard exits. In addition to
26 adding these lanes, the highway's shoulders will be widened by removing the adjacent mature trees and
27 shrubs and excavating the adjacent embankments. The existing La Fonda Avenue overpass will be torn
28 down and a new, longer, overpass will be constructed in its place. The widened shoulders and the longer

1 La Fonda overpass are all being constructed to accommodate the third segment, the eight-lane High
2 Occupancy Vehicle Lanes Project (“HOV Lanes Project”), which overlaps the Auxiliary Lanes Project
3 and also extends eight miles to its south. The Auxiliary Lanes Project will construct new pavement,
4 retaining walls and soundwalls, and other hardscape features.

5 5. The third and final segment is the HOV Lanes Project, which will add two HOV lanes to
6 Highway 1 between San Andreas Road and Morrissey Boulevard, an almost nine-mile stretch of Highway
7 1 that encompasses the area of the Auxiliary Lanes Project. The HOV Lanes Project will also add more
8 auxiliary lanes, ultimately doubling the Highway’s width from four lanes to eight.

9 6. In an effort to sidestep the full analysis of the cumulative environmental impacts of this
10 overall highway expansion project required under CEQA, Caltrans has split this nine-mile highway
11 widening project into three segments, and has analyzed each segment separately. Caltrans claims that
12 each segment is distinct, “with independent utility and differing purposes,” but the facts show that all the
13 segments are interdependent.

14 7. Caltrans defines the purpose of the Auxiliary Lanes Project very narrowly, asserting that
15 its objective “is to improve traffic conditions for lane changes and merges on Highway 1” within the
16 Project’s boundaries. The HOV Lanes Project, on the other hand, has the ostensible purpose of reducing
17 overall congestion on Highway 1 and encouraging alternatives to single occupant vehicles. The Merge
18 Lanes Project’s claimed objective was to address safety issues. Caltrans has defined each segment of the
19 project so as to avoid analyzing the cumulative impacts of the overall project.

20 8. This segmentation of one large project into several smaller ones is a violation of CEQA.
21 When considered together with the other two segments - the Merge Lanes Project and the HOV Lanes
22 Project - the Auxiliary Lanes Project will have potentially significant adverse effects on air quality and
23 climate change, aesthetics, noise, traffic and transportation, water quality, biological resources and
24 growth. Therefore under CEQA, these impacts must be addressed in an EIR. Contrary to CEQA, none of
25 these impacts have been analyzed in an EIR. Instead, Caltrans restricted its environmental review of the
26 Auxiliary Lanes Project to just an Initial Study with Mitigated Negative Declaration/Environmental
27 Assessment with Finding of No Significant Impact (“Initial Study/MND”). Caltrans’ failure to prepare an
28 EIR violates CEQA because the cumulative impact of the Auxiliary Lanes Project-segment, when

1 considered with the Merge Lanes Project-segment and the HOV Lanes Project-segment, is potentially
2 significant.

3 9. Petitioners request a writ of mandate from this Court pursuant to PRC sections 21168 and
4 21168.5 and Code of Civil Procedure (“CCP”) sections 1085 and 1094.5 setting aside all Caltrans
5 approvals of the Project, including certification of its:

- 6 a. Initial Study/MND, dated September 10, 2009, and its
- 7 b. Notice of Determination filed September 21, 2009.

8 10. Petitioners also seek declaratory relief under CCP section 1060 declaring unlawful, and
9 injunctive relief under CCP section 526 enjoining Caltrans from permitting or taking, any actions that
10 implement the Project without full compliance with CEQA and CCP sections 1085 and 1094.5.

11 PARTIES

12 11. Petitioner CAMPAIGN FOR SENSIBLE TRANSPORTATION is an unincorporated
13 association of individuals and organizations who seek to secure informed Santa Cruz County
14 transportation policies that fully protect environmental quality. CFST was formed in June 2001 with
15 three main goals: educating the community about the ineffectiveness of highway widening as a method
16 of reducing congestion, promoting alternatives to highway widening, and persuading agency decision
17 makers of the value of alternative modes of transportation. CFST has urged Caltrans to rectify errors and
18 omissions in the Initial Study/MND, prepare an EIR for the overall highway widening project, and to
19 disapprove the Auxiliary Lanes Project as an improperly segmented component of that overall project.
20 CFST has also encouraged Caltrans to assess the possibility of increased public transit and alternative
21 forms of transportation, including making new uses of the parallel Santa Cruz Branch Line rail corridor,
22 as alternatives to widening Highway 1. CFST has repeatedly emphasized that Caltrans must produce one
23 comprehensive EIR that analyzes the impacts of the Auxiliary Lanes Project as part of the HOV Lanes
24 Project, and analyzes the cumulative impacts of all three projects. Caltrans has brushed aside the requests
25 and comments of CFST, employing semantic sophistry to excuse its improper segmentation of its overall
26 highway widening project. The interests of petitioners and all Californians have been, are being, and
27 unless the relief requested herein is granted, will be adversely affected and injured by Caltrans’ approval
28 of the Project.

1 12. Petitioner PETER SCOTT has been a resident of Santa Cruz County for over 40 years, and
2 has lived in the City of Santa Cruz since 1966. Petitioner Scott uses the Highway 1 corridor an average
3 of once a week, including the section of Highway 1 between Soquel Avenue and Morrissey Boulevard.
4 Petitioner Scott objected to the Auxiliary Lanes Project both as a signer of CFST's comment letters and
5 individually in a letter dated November 14, 2008. Petitioner Scott will be harmed by the Auxiliary Lanes
6 Project's impacts on noise, air quality and aesthetics. An avid bicyclist, petitioner Scott is a vigorous
7 advocate for alternative modes of transportation, and tries to avoid using a car whenever possible.
8 Petitioner Scott will be harmed by the lack of new bicycle/pedestrian crossings over Highway 1 and by
9 Caltrans' refusal to consider increased alternative modes of transportation as an alternative to widening
10 the highway.

11 13. Petitioner PAUL ELERICK has been a resident of Santa Cruz County for almost 40 years,
12 since 1971. Petitioner Elerick is currently serving as the Chairperson for CFST. Petitioner Elerick uses
13 the Highway 1 corridor many times each week to commute in his hybrid vehicle from his home in Aptos
14 to Santa Cruz. The section of Highway 1 that Petitioner Elerick uses includes the section that is slated for
15 the Auxiliary Lanes Project. Petitioner Elerick objected to and will be adversely affected by Caltrans'
16 approval of and failure to perform adequate environmental review for the Project. Petitioner Elerick will
17 be harmed by the Project's unexamined and inadequately mitigated impacts on air quality, aesthetics,
18 noise, traffic, water quality, biological resources and global warming.

19 14. Petitioner JEAN BROCKLEBANK has been a resident of the City of Santa Cruz for 30
20 years. Petitioner Brocklebank drives on Highway 1 from the Highway 1/17 merge south to Watsonville
21 on a regular basis. Petitioner Brocklebank also uses the overpasses and arterial roads of Highway 1 as a
22 pedestrian. Petitioner Brocklebank objected to the Auxiliary Lanes Project and requested that a full EIR
23 be completed for the Project prior to approval. Petitioner Brocklebank will be adversely affected by the
24 Project's destruction of biological habitat, air quality impacts, increased emissions of carbon dioxide and
25 other greenhouse gases, as well as dust and dirt from Project construction.

26 15. Petitioners have exhausted their administrative remedies by objecting to Caltrans'
27 approval of the Project during the public comment period. Petitioners gave prior notice of this
28 proceeding to Caltrans and to the California Attorney General in accordance with applicable law, as

1 documented herein and in Petitioners' Proof of Service of Petitioners' Notice of Intent to File CEQA
2 Action and Notice to California Attorney General filed concurrently herewith.

3 16. Petitioners have no plain, speedy, or adequate remedy in the ordinary course of law within
4 the meaning of CCP section 1086, in that Caltrans' approvals of the Project are not otherwise reviewable
5 in a manner that provides an adequate remedy.

6 17. Caltrans' approvals of the Project challenged herein will result in irreparable harm to
7 petitioners because the proposed Project will cause significant adverse environmental impacts on air
8 quality, aesthetics, noise, traffic, water quality, biological resources, global warming and numerous
9 cumulative impacts.

10 18. The Project will also be inconsistent with the City of Santa Cruz General Plan/Local
11 Coastal Plan, Santa Cruz being the city within which most of the project is located, and whose General
12 Plan Circulation Element Goal C1 identifies reduction of automobile trips as the highest priority.

13 19. The Project's impacts will harm petitioners' use and enjoyment of the environmental
14 resources upon which they depend for their health, safety, aesthetic enjoyment, recreation, and study.

15 20. Such environmental harm is unlawful and irreparable. Therefore petitioners are entitled to
16 this Court's injunctive relief pursuant to CCP section 526.

17 21. Petitioners contend that Caltrans' approvals of the Project violate CEQA, and other
18 applicable laws in the respects alleged herein. Petitioners are informed and believe that Caltrans disputes
19 this contention. Therefore petitioners are entitled pursuant to CCP 1060 to this Court's declaration
20 resolving such dispute.

21 22. Respondent CALIFORNIA DEPARTMENT OF TRANSPORTATION ("Caltrans") is the
22 state agency in charge of managing and building the State of California's highways and freeways, as well
23 as inter-city rail services. Caltrans is responsible for the design, construction, maintenance and operation
24 of the California State Highway System, and also provides intercity passenger rail service in the state. On
25 September 10, 2009 Caltrans approved the Initial Study/MND for the Project. Caltrans is charged by law
26 with responsibility for administering and assuring compliance with the requirements of CEQA, and CCP
27 sections 1085 and 1094.5, with respect to its approval of the Project. In purporting to approve and
28 implement the Project, Caltrans failed to comply with these laws. Respondents RANDELL IWASAKI,

1 RICHARD KRUMHOLZ and JENNIFER TAYLOR are the Caltrans officials responsible for approval of
2 the Project and are sued in their official capacities.

3 23. Petitioners are unaware of the true names and capacities of respondents Does I-XX, and
4 therefore sue such respondents herein by fictitious names. Petitioners are informed and believe, and
5 based on such information and belief allege, that the fictitiously named respondents are also responsible
6 for approval of the Project and its threatened injury to petitioners. When the true identities and capacities
7 of these respondents have been determined, petitioners will, with leave of the Court if necessary, amend
8 this Verified Petition to insert such identities and capacities.

9 24. Petitioners are unaware of the true names and capacities of real parties in interest DOES
10 XXI-XXX, and sue such real parties in interest herein by fictitious names. Petitioners are informed and
11 believe, and based on such information and belief allege, that the fictitiously named real parties in interest
12 have a direct financial or property interest in developing the Project. When the true identities and
13 capacities of these real parties in interest have been determined, petitioners will, with leave of the Court if
14 necessary, amend this Petition to insert such identities and capacities.

15 **EXHAUSTION OF REMEDIES**

16 25. Petitioners have exhausted their administrative remedies by objecting to Caltrans'
17 approval of the Project prior to the close of the public comment period for the Project. The violations of
18 CEQA and other laws alleged herein were presented to Caltrans orally or in writing during the public
19 comment period on the Project.

20 **JURISDICTION AND VENUE**

21 26. This Court has jurisdiction over this proceeding pursuant to CCP sections 1085 and
22 1094.5, PRC sections 21168 and 21168.5, CCP sections 526 and 1060, and article VI, section 10 of the
23 California Constitution.

24 27. Venue is proper in this Court pursuant to CCP sections 393 and 395.

25 28. This petition is timely filed within 30 days of Caltrans' filing of its Notice of
26 Determination approving the Project on September 21, 2009, in accordance with PRC section 21167.

27 **FACTUAL BACKGROUND**

28 29. Highway 1 is the main north-south vehicular route through Santa Cruz County. Highway

1 1 is primarily a four-lane divided highway in the corridor from Highway 17 in the City of Santa Cruz,
2 southward through Santa Cruz County.

3 30. In 2002 Caltrans identified construction of “auxiliary lanes” between Soquel Avenue and
4 Morrissey Boulevard as a second step in its planned widening of Highway 1 southward from the City of
5 Santa Cruz.

6 31. In 2003 Caltrans and the Federal Highway Administration initiated
7 preliminary design and environmental studies to add high occupancy vehicle lanes to Highway 1 from
8 Morrissey Boulevard south to San Andreas/Larkin Valley Road.

9 32. In 2005, the Auxiliary Lanes Project was included in the 2005 Santa Cruz County
10 Regional Transportation Plan and again in its 2006 Regional Transportation Improvement Program.

11 33. In November 2004, the voters of Santa Cruz County rejected a transportation funding
12 ballot measure which included local sales tax funding for the HOV Lanes Project.

13 34. The Project finally received state funding through the State Corridor Mobility
14 Improvement Account, which was made available when California voters approved Proposition 1B in
15 November 2006.

16 35. The Project also received federal funding under the Safe, Accountable, Flexible, Efficient
17 Transportation Equity Act.

18 36. The proposed Auxiliary Lanes Project consists of adding one auxiliary highway lane to
19 Highway 1 in each direction, increasing the width of the interior and exterior highway shoulder to 10 feet,
20 tearing down the existing La Fonda Avenue overpass, and replacing it with a longer overpass to
21 accommodate the eight-lane HOV Lane Project. The Auxiliary Lanes Project also calls for the
22 destruction and removal of dense and majestic stands of mature evergreen and deciduous trees and shrubs
23 including riparian vegetation along Arana Gulch, and excavation of the embankments on either side of
24 Highway 1, as well as the construction of massive retaining walls and soundwalls, and other related
25 construction in the Project area. The Auxiliary Lanes Project would also irretrievably commit a large,
26 increased sum of public funds for, and cause resultant environmental impacts from, highway construction
27 (specifically, inclusion of the prospective future HOV lanes capacity within the Auxiliary Lanes Project
28 area) before the HOV Lanes Project has gone through a completed EIR process. This precludes and

1 prejudices an adequate future opportunity to analyze, and perhaps select, transportation alternatives to the
2 HOV Lanes Project as required to be done in the HOV Lanes EIR public process.

3 37. The Auxiliary Lanes Project is just one of three project-segments within the Highway 1
4 corridor intended to increase the highway's capacity. In addition to the Auxiliary Lanes Project, Caltrans
5 recently completed construction of the Highway 1/17 Merge Lanes Project, which was opened in
6 November, 2008. The Merge Lanes Project added two 12-foot-wide auxiliary lanes connecting Highway
7 17 to Highway 1 and 10-foot-wide inside and outside shoulders, replaced the metal median barrier with a
8 concrete median barrier, installed a new bridge structure at Branciforte Avenue, lengthened the bridges at
9 Market Street and Emeline Avenue, realigned off-ramps and on-ramps, and added new retaining walls,
10 soundwalls and sidewalks.

11 38. The other planned Highway 1 improvement is the HOV Lanes Project, which is in the
12 planning stages, with an EIR being prepared for that project. The HOV Lanes Project will widen
13 Highway 1 from four lanes to eight lanes for 8.5 miles by adding an inside HOV lane in each direction
14 and adding "auxiliary lanes" between interchanges in both directions. To complete the HOV Lanes
15 Project, numerous interchanges will be reconfigured.

16 39. Draft technical reports in support of the EIR for the HOV Lanes Project were completed
17 and submitted to Caltrans for review in August, 2007. The updated draft environmental document with
18 technical reports is scheduled to be submitted to Caltrans for review in May/June 2010.

19 40. An Initial Study with proposed Mitigated Negative Declaration/Environmental
20 Assessment on the Auxiliary Lanes Project was prepared and circulated to the public from October 13 to
21 November 14, 2008 ("Draft Initial Study").

22 41. The Draft Initial Study explained that the Auxiliary Lanes Project "is one of three projects
23 within the Highway 1 corridor in Santa Cruz developed to address operational and capacity needs." Draft
24 Initial Study, p. 3. The Final Initial Study/MND also characterized the Auxiliary Lanes Project as one of
25 three projects to improve Highway 1. Final Initial Study/MND, p. 4.

26 42. The Draft Initial Study explained that "[t]he focus of the [auxiliary lanes] project is to
27 improve conditions for lane-changing and merging movements within this area, but there also would be
28 mobility benefits outside the immediate Soquel to Morrissey project vicinity." *Id.* at 33.

1 43. The Highway 1 Auxiliary Lanes Project Traffic Operations Report ("Auxiliary Lanes
2 TOR"), dated February 2008, by Wilbur Smith Associates, was one of the separately bound Technical
3 Studies issued in October 2008 with the Auxiliary Lanes Project's Draft Initial Study. (The same-named
4 traffic report with apparently only minor corrections, updated September 2008, was made public in
5 September 2009 with the finalized Initial Study.) The Auxiliary Lanes TOR results, as summarized in
6 Table 5-1, show that the improvements in traffic from the Auxiliary Lanes Project at opening design year
7 2015 do not actually occur in the Auxiliary Lanes segment (which would be more congested) but only in
8 the overall Highway 1 corridor study area (which would be less congested), as summarized below.

9 44. The first row in Table 5-1 of the Auxiliary Lanes TOR shows that Average Travel Time
10 ("ATT") in the Auxiliary Lanes Project area during "Peak Hour Conditions" in the 2015 design year
11 would actually be notably slower if the Project were built than if it were not. For example, during the
12 Southbound PM commute, Build ATT would be 8.03 minutes, while No-Build ATT would be 5.49
13 minutes. There is a descriptive narrative discussion of Table 5-1 in the Auxiliary Lanes TOR at section
14 5.1.2, which confirms this reading of the table. Section 5.1.2, page 5-2, states that "operating conditions
15 [along the Auxiliary Lanes segment] . . . deteriorate . . . due to the removal of a bottleneck at this location
16 with the provision of auxiliary lanes and creation of a new bottleneck location downstream of this
17 segment." But Table 5-2 shows that overall corridor travel time for the entire Highway 1 corridor study
18 area, from Highway 17 to San Andreas Road, would nonetheless be improved by construction of the
19 Auxiliary Lanes project. This shows that the benefit of the Auxiliary Lanes Project is not to reduce
20 congestion in the Auxiliary Lanes area (which would be more congested), but in the overall Highway 1
21 corridor (which would be less congested) and contradicts Caltrans' explanation that the Auxiliary Lanes
22 Project is an "operational improvement" project to improve localized lane changes and merges, with
23 independent utility based on that flawed premise, and separate from the HOV Lanes Project, which aims
24 to reduce corridor congestion.

25 45. Without substantial evidence, Caltrans asserted that "Highway improvement projects . . .
26 do not generate vehicular trips themselves" and concluded that the Auxiliary Lanes Project, after opening,
27 would not induce new vehicle trips: "it was assumed that the proposed project would not generate new
28 trips" (Highway 1 Soquel to Morrissey Auxiliary Lanes Project, Air Quality Impact Report, May 28,

1 2008, page 25). This profoundly faulty assumption, the scientific evidence for which is not given, forms
2 the basis for Caltrans' further conclusions that the potential environmental impacts of increased, induced
3 vehicle trips will not occur and that related impacts cumulative with the future HOV Lanes Project and
4 previous Merge Lanes Project will therefore also not occur. Thus the concern of induced growth in
5 vehicle trips, which would result in increased future greenhouse gas emissions and a potential return of
6 congested traffic conditions on a grander scale in a larger system, is not properly addressed in the Initial
7 Study/MND. The Initial Study and the Auxiliary Lanes TOR simply do not report the modeled future
8 traffic conditions after the opening design year 2015.

9 46. Contrary to Caltrans' claims that the Project will not induce vehicle trips or other
10 consequent impacts, a CFST member discovered that the Highway 1 HOV Lane Widening Project Traffic
11 Operations Report ("HOV Lanes TOR"), April 2007, by the same Wilbur Smith Associates, shows that
12 quite relevant study data was indeed available at the time, which directly contradicts Caltrans' assertions.
13 The unpublished HOV Lanes TOR is inconspicuously referenced in one of the Draft Initial Study
14 technical studies. The HOV Lanes TOR data predicts marked *increases* in average daily traffic at year
15 2035 with just the Auxiliary Lanes constructed, including a far greater increase occurring in the
16 developed Auxiliary Lanes area *compared to* an adjacent unaltered highway segment. Specifically, Table
17 4-6 of the HOV Lanes TOR shows modeled year 2035 results for building the Auxiliary Lanes,
18 inconspicuously identified in the table as "Year 2035 [HOV] No Build." (The report confirms elsewhere,
19 on page 1-4, that the HOV "No Build" analysis assumes construction of the Soquel Avenue to Morrissey
20 Boulevard Auxiliary Lanes.) The table shows that in the developed mainline Soquel Avenue to
21 Morrissey Boulevard (Auxiliary Lanes) segment, northbound average daily traffic would increase by
22 43%, while the corresponding number for the adjacent unaltered 41st Ave. to Soquel Avenue northbound
23 mainline segment would be a much smaller 15% increase. This is significant evidence of the occurrence
24 of many new, induced vehicle trips over time, resulting from the Project.

25 47. CFST submitted public comments to Caltrans on September 24, 2008 and November 14,
26 2008 raising its CEQA concerns about the Project's significant and cumulative effects on the
27 environment, its impacts on global warming, and its improperly segmented analysis, and proposing
28 alternatives that would avoid or reduce the Project's impacts. CFST also urged Caltrans to prepare an

1 EIR for the Project and to analyze the Auxiliary Lanes Project and the HOV Lanes Project together with
2 the cumulative effects of these projects when combined with the Merge Lanes Project. CFST pointed out
3 flaws in Caltrans' traffic analysis and requested that more analysis be done on air quality, energy use,
4 aesthetics, noise, cumulative, and growth inducing impacts. CFST also documented the Auxiliary Lane
5 Project's inconsistency with the City of Santa Cruz General Plan.

6 48. A public hearing was held on the Project on October 29, 2008.

7 49. On November 18, 2008 the Highway 1/17 Merge Lanes Project opened to the public.

8 50. The Final Project Report for the Auxiliary Lanes Project was submitted to Caltrans for
9 signature in July/August 2009.

10 51. The Auxiliary Lanes Project's Initial Study with Mitigated Negative
11 Declaration/Environmental Assessment was approved by Caltrans on September 10, 2009.

12 52. On September 21, 2009 Caltrans filed with the State Clearinghouse Caltrans' Notice of
13 Determination purporting to find, pursuant to CEQA Guideline [14 CCR] section 15094, that its approval
14 of the Project was consistent with CEQA. This lawsuit followed.

15 FIRST CAUSE OF ACTION

16 **(Writ of Mandate to Set Aside Project Approval as Contrary to California Environmental Quality 17 Act and Declaratory and Injunctive Relief to Declare Unlawful and Restrain Project Approval and Implementation)**

18 **(Alleged by All Petitioners Against All Respondents)**

19 53. The paragraphs set forth above are realleged and incorporated herein by reference.

20 54. In approving the Project and the Initial Study, Caltrans proceeded in excess of its
21 jurisdiction and abused its discretion in violation of CEQA by failing to, *inter alia*:

22 a. Prepare an EIR as required by CEQA Guidelines [14 CCR] sections
23 15063(b)(1)(A) and 15064(a)(1);

24 b. make the mandatory findings of significance required by CEQA Guidelines
25 sections 15065 (a)(1), (2), (3) and (4);

26 c. provide an adequate project description, as required by CEQA Guidelines sections
27 15063(a)(1) and 15063(d)(2), *McQueen v. Board of Directors of the Mid-peninsula Regional Open Space*
28 *District* (1988) 202 Cal.App.3d 1136, 1143-44, and *Rural Land Owners Association v. Lodi City Council*

1 (1983) 143 Cal.App.3d 1013, 1024-25 (“Responsibility for a project cannot be avoided by limiting the
2 title or description of the project”);

3 d. provide an adequate description of the Project’s environmental setting as required
4 by CEQA Guidelines section 15063(d)(2);

5 e. analyze the Auxiliary Lanes Project as part of the whole Highway 1 widening
6 project (including the Merge Lanes Project and the HOV Lanes Project), as CEQA does not permit lead
7 agencies to “piecemeal” a single project into two or more segments under CEQA Guidelines sections
8 15124, 15378(a) and 15378(c), *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233
9 Cal.App.3d 577, 592 (large projects cannot be divided to sidestep or trivialize environmental review),
10 *Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263, 283-284 (same), *San Joaquin*
11 *Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 729-34 (even if a
12 future project is severable from the current project, an EIR must address the future project if it is
13 foreseeable and would contribute to cumulative impacts);

14 f. adequately disclose, discuss, and mitigate the Project’s substantial
15 adverse impacts on air quality, aesthetics, noise, traffic, water quality, biological resources, growth
16 inducement and global warming contrary to CEQA Guidelines sections 15021(a), 15063(d)(4), 15064(c)
17 and (d), 15126, and 15126.2;

18 g. adequately disclose and address the Project’s growth-inducing and
19 cumulative effects, including the Project’s significant and cumulatively considerable impacts on
20 greenhouse gas emissions, contrary to CEQA Guidelines sections 15063(d)(3), 15126(d), 15126.2(d),
21 15130 and 15144;

22 h. provide specific, certain and enforceable mitigation measures, instead
23 impermissibly deferring the development and assessment of such measures to the future, contrary to
24 CEQA Guidelines section 15126.4;

25 i. address the Project’s inconsistencies with the City of Santa Cruz General Plan,
26 contrary to CEQA Guidelines section 15125(d);

27 j. consider a reasonable range of alternatives and adequately discuss
28 alternatives as required by CEQA Guidelines section 15126.6; and

1 k. adequately respond to the public's comments on the Draft Initial Study as required
2 by CEQA Guidelines section 15074(b), and *Clearly v. County of Stanislaus* (1981) 118 Cal.App.3d 348,
3 358.

4 55. For the foregoing reasons, among others, Caltrans' approval of the Project violates the
5 requirements of CEQA and the CEQA Guidelines, exceeds Caltrans' jurisdiction, constitutes a prejudicial
6 abuse of discretion under PRC sections 21168 and 21168.5, and is contrary to the procedures required by
7 law including CCP sections 1085 and 1094.5. Accordingly, Caltrans' approval of the Project is unlawful
8 and must be set aside.

9 **RELIEF REQUESTED**

10 WHEREFORE, petitioners pray for judgment and further relief as follows:

11 1. For a peremptory writ of mandate directing Caltrans to vacate and set aside its approvals
12 of the Project, because they violate CEQA and CCP sections 1085 and 1094.5 in the respects alleged
13 hereinabove;

14 2. For declaratory relief under CCP section 1060 declaring unlawful, and for interlocutory
15 and permanent injunctive relief under CCP section 526 restraining Caltrans from approving and
16 implementing, any actions to carry out the Project pending, and following, the hearing of this matter;

17 3. For a peremptory writ of mandate directing Caltrans to suspend all activity under the
18 approvals for the Project that could result in any change or alteration in the physical environment until
19 Caltrans has taken all actions necessary to bring its approvals of the Project into compliance with the laws
20 whose violation is alleged herein, including incorporating the environmental analysis of the Auxiliary
21 Lanes Project into the HOV Lanes Project EIR;

22 4. For an award to petitioners of their attorneys' fees and costs of suit (including all
23 necessary and reasonable litigation costs) as authorized by CCP sections 1021.5, 1032 and 1033.5; and

24 5. For such other equitable or legal relief as the Court deems appropriate.

25 Dated: October 20, 2009

Respectfully submitted,

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STEPHAN C. VOLKER
Attorneys for Petitioners and Plaintiffs CAMPAIGN FOR
SENSIBLE TRANSPORTATION, PETER SCOTT, PAUL
ELERICK, and JEAN BROCKLEBANK

1 VERIFICATION

2 I, Stephan C. Volker, am the attorney for petitioners/plaintiffs in this action. I make this
3 verification on behalf of the petitioners/plaintiffs because such parties and their representatives are absent
4 from the county in which my office is located. I have read the foregoing Verified Petition for Writ of
5 Mandate and Complaint for Declaratory and Injunctive Relief and know its contents. The facts therein
6 alleged are true and correct to the best of my knowledge and belief, and are based on documents within
7 the respondents' record underlying their approval of the Project herein challenged.

8 I declare under penalty of perjury under the laws of the State of California that the foregoing is
9 true and correct, and that this Verification was executed in Oakland, California on October 20, 2009

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12 STEPHAN C. VOLKER
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