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December 8, 2014

VIA U.S. MAIL and FACSIMILE at (213) 978-1027

Holly L. Wolcott, City Clerk
City of Los Angeles
200 N. Spring Street, Room 360
Los Angeles, CA 90012

RECEIVED
CITY CLERK'S OFFICE
2014 DEC 11 AM 10:27
CITY CLERK
W.V.
DEPUTY
I. AM.

Re: Notice of Intent to Challenge Approval of the Haul Route and MND ENV-2014-2105-MND

Dear Ms. Wolcott:

Please take notice that on behalf of the Bird Street Neighbors Coalition we intend to commence an action to challenge the City's approval of an application for Review of Technical Reports and Import-Export Routes, Board of Building and Safety Commissioners Board File No.140059 (Haul Route), that Real Parties in Interest Jason P. Rubin, Trustee of the Jason P. Rubin Revocable Trust dated February 7, 2014 and Thomas Dumary III determined necessary and appropriate for the proposed development of a single-family home at 1540 North Skylark Lane. The City improperly certified a Mitigated Negative Declaration, granted under ENV-2014-2105-MND, for Real Parties' project and violated Los Angeles Municipal Code Section 97.7006.7.5.5.

Very truly yours,

LUNA & GLUSHON

KRISTINA BADARAITE

1 ROBERT L. GLUSHON, S.B.#93840
2 KRISTINA BADARAITE S.B.#279316
3 LUNA & GLUSHON
4 16255 Ventura Boulevard, Suite 1016
5 Encino, California 91436
6 Telephone: (818) 907-8755
7 Facsimile: (818) 907-8760

8 Attorneys for Petitioners and Plaintiffs

BY _____
CITY CLERK
DEPUTY *M.M.*

2014 DEC 11 AM 10:27

RECEIVED
CITY CLERK'S OFFICE
P.M.

9 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES

11 BIRD STREET NEIGHBORS COALITION,
12 an unincorporated association; WARREN J.
13 KESSLER, an individual; JOAN B. KESSLER,
14 an individual,

15 Petitioners

16 vs.

17 CITY OF LOS ANGELES, a municipal
18 corporation; CITY COUNCIL OF THE CITY
19 OF LOS ANGELES, the governing body of
20 the City of Los Angeles; and DOES 1 through
21 25, inclusive,

22 Respondents

23 JASON P. RUBIN, TRUSTEE OF THE
24 JASONP.RUBIN REVOCABLE TRUST,
25 DATED FEBRUARY 7, 2014, THOMAS
26 DUMARY III, an individual; and ROES 1
27 through 25, inclusive,

28 Real Parties In Interest.

Case No.:

PETITION FOR WRIT OF MANDATE

[CCP §1094.5 and Public Resources Code,
§§ 21000, et seq.]

1 Petitioners allege that:

2 **GENERAL ALLEGATIONS**

3 **THE PARTIES**

4 1. Petitioner BIRD STREET NEIGHBORS COALITION, is a California
5 unincorporated Association (“Coalition”) whose members have a beneficial interest in and title
6 to improved real property in the neighborhood of the proposed construction project located in
7 the City of Los Angeles, Los Angeles County, California, and that is the subject of this lawsuit.

8 2. Petitioners WARREN J. KESSLER and JOAN B. KESSLER are individuals, are
9 husband and wife, and together they own a beneficial interest in and title to improved real
10 property located in the City of Los Angeles, Los Angeles County, California, which is adjacent
11 to and downhill from a proposed construction project and which is the subject of this lawsuit.
12 Together, the Kesslers and the Coalition will be referred to herein as the “Petitioners.”

13 3. Petitioners are informed and believe and thereon allege that Real Party in
14 Interest, JASON P. RUBIN, TRUSTEE OF THE JASON P. RUBIN REVOCABLE TRUST,
15 DATED FEBRUARY 7, 2014, owns and/or has a beneficial interest in real property commonly
16 known as 1540 North Skylark Lane (referred to hereinafter as the “Subject Property”).

17 4. Petitioners are informed and believe and thereon allege that Real Party in Interest
18 THOMAS DUMARY III, an individual, is the applicant in connection with the “Haul Route
19 Application,” described below.

20 5. Real Parties sought permits and other approvals from the City of Los Angeles to
21 develop the Subject Property.

22 6. Respondent, CITY OF LOS ANGELES, (which along with the City Council of
23 the City of Los Angeles hereinafter will be referred to either as the “City” or “Respondent”) is a
24 municipal corporation, organized and existing under the laws of the state of California, located
25 within the County of Los Angeles. The City’s Board of Building and Safety Commission, and
26 upon appeal, the City Council, has the authority to issue permits for the hauling of dirt on public
27 streets within the City of Los Angeles. The City also has responsibility to ensure that all
28 discretionary approvals comply with all applicable laws including without limitation the

1 California Environmental Quality Act (*Public Resources Code* Section 21000 *et. seq.*; and 14
2 Cal. Code Regs. §15000 *et. seq.* [hereinafter referred to as “CEQA”]) and *Los Angeles*
3 *Municipal Code* Section 97.7006.

4 7. Respondent, CITY COUNCIL OF THE CITY OF LOS ANGELES, is made up
5 of elected officials representing Respondent City and is charged with the ultimate authority to
6 review discretionary decisions made by its subordinate committees, departments, and agencies
7 concerning land use applications, planning, the implementation of the City’s land use policies
8 including without limitation its Board of Building and Safety Commissioners, and ensuring that
9 discretionary decisions made by the City fully comply with the CEQA and enforcing and
10 implementing its municipal code, including without limitation, Los Angeles Municipal Code
11 Section 91.7006, among other things. The acts of the respondent CITY OF LOS ANGELES
12 alleged below were either taken by or ratified by its CITY COUNCIL.

13 8. Petitioners are ignorant of the true names and capacities of Respondents or other
14 Real Parties in Interest sued herein as DOES 1-25, inclusive, and ROES 1-25, inclusive, and,
15 therefore, sues these individuals and/or entities by such fictitious names. Petitioners will amend
16 this petition to allege the true names and capacities of fictitiously named parties when
17 ascertained. Petitioners are informed and believe and thereon allege that each party designated
18 herein as a DOE and/or a ROE is responsible for the events and happenings alleged in this
19 petition or has a beneficial interest in the discretionary actions challenged herein.

20 9. Petitioners are informed and believe and thereon allege that at all times herein
21 mentioned, Respondents and/or other Real Parties in Interest, and each of them, were the agents,
22 servants, employees, partners, and alter egos of the remaining Respondents and/or other Real
23 Parties in Interest, that the acts complained of herein were done within the course and scope of
24 said agency, service, employment, and partnership, and that the acts by each Respondents and/or
25 other Real Parties in Interest were ratified, approved and adopted by each of the remaining
26 Respondents and/or other Real Parties in Interest.

1 **CITY'S REVIEW OF THE PROJECT**

2 10. On or about June 3, 2014, Real Parties filed an application with the City of Los
3 Angeles for certain permits and associated approvals from the Respondents including without
4 limitation, an application (the "Haul Route Application") with the Department of Building and
5 Safety for Review of Technical Reports and Import-Export Routes, Board File No.140059
6 (Haul Route) that Real Parties determined are necessary and appropriate to Real Party's
7 proposal to develop a single-family home at the Subject Property (the "Project").

8 11. On or about August 5, 2014, Respondents, through its Department of City
9 Planning prepared for the Project an Initial Study and Checklist under CEQA on behalf and for
10 the use of the Respondent's Department of Building & Safety as it was described and filed by
11 the Real Parties. In that Initial Study, the Project was described as: "*Construction of a new*
12 *single family dwelling with pool, garage, and retaining walls. Haul Route approval is necessary*
13 *for the project. No other request.*"

14 12. The Department of City Planning identified many substantive environmental
15 issues in which the Project had the potential to negatively impact the environment unless certain
16 steps were taken to mitigate these identified potential significant impacts. Examples, without
17 limitation, described in the Initial Study of the Project's potential to cause significant
18 environmental impacts included:

19 a. Initial Study Section VI.a. and b. Geology and Soils: "the site is located
20 within the Hollywood Fault Zone and the potential for blind thrust faults that do not have a
21 surface trace, to be present;"

22 b. Initial Study Section XVI.d. Transportation/Traffic: "the project will
23 utilize, during the construction phases, various types of construction vehicles, and trucks for the
24 export of soil. There may be potentially significant traffic hazard impacts due to design features
25 within adjoining streets;"

26 c. Initial Study Section XVI.e. Transportation/Traffic: "the project will
27 utilize, during the construction phases, various types of construction vehicles, and trucks for the
28

1 export of soil. Temporary construction activities and the hauling of soils for export may result in
2 impaired emergency access through Skylark Lane;”

3 d. Initial Study Section XVIII.b Mandatory Findings of Significance: the
4 project result in environmental effects that are individually limited but cumulatively
5 considerable;

6 e. Initial Study Section XII Noise: temporary and short term construction
7 activities may result in increased noise levels.

8 f. Initial Study Section I Aesthetics: alteration of existing or natural terrain
9 may result from project implementation.

10 13. These findings and conclusions reached in the Initial Study were based on
11 substantial evidence available to the Department of City Planning.

12 14. Based on the Initial Study in conjunction with the City of Los Angeles’s
13 Adopted Thresholds Guide and CEQA Guidelines the Department of City Planning determined
14 that the Project “may cause potentially significant impacts on the environment without
15 mitigation.” Therefore, it concluded that “. . . a Mitigated Negative Declaration (shall) be issued
16 to avoid and mitigate all potential adverse effects on the environment by the imposition of
17 mitigation measures and/or conditions contained and expressed in (an approval document) the
18 environmental case file known as ENV-2014-2105-MND.”

19 15. On or about October 7, 2014, the Board of Building & Safety Commissioners
20 met at a regularly scheduled meeting of that body to consider its agenda related to the Project
21 consisting of the Haul Route (Board File 140059, hereinafter referred to as the “Haul Route”),
22 and the ENV-2014-2105-MND (hereinafter referred to as the “MND.”)

23 16. Petitioner WARREN KESSLER attended the public hearing of the Board of
24 Building & Safety Commissioners and testified against the Project including giving testimony
25 based on personal experience and observations regarding all aspects of the adverse
26 environmental consequences of the whole of the Project and the Haul Route and the MND
27 including several matters that threatened the health, safety and welfare of the immediate
28 community.

1 17. After taking testimony and closing the public hearing on the Haul Route and the
2 MND the Board of Building and Safety Commissioners voted to approve the Project and certify
3 the MND.

4 18. On or about October 16, 2014, Petitioners filed a timely appeal of the entire
5 decision of the Board of Building and Safety Commissioners regarding the Project with
6 Respondents' City Clerk. That appeal contained a very detailed description of the many and
7 varied grounds for objecting to the Project, including without limitation the substantive and
8 procedural violations of CEQA involved with the approval of the Project including the
9 certification of the MND.

10 19. On or about November 4, 2014, the Planning and Land Use Management
11 Committee (hereinafter referred to as the "PLUM Committee"), a standing committee of the
12 Respondents' Los Angeles City Council, met at a regularly scheduled hearing and considered
13 Petitioners' appeal of all aspects of the approval of the Project. Again, Petitioners and other
14 members of the public attended the public hearing and testified based on personal experience
15 and observations regarding all aspects of the adverse environmental consequences of the Project
16 and the haul route including several matters that threatened the health, safety and welfare of the
17 immediate community.

18 20. After closing the public hearing, the PLUM Committee did not make a
19 recommendation on Petitioners' appeal as to either approval of the Haul Route or certification
20 of compliance with CEQA and adoption of the MND.

21 21. On November 14, 2014, the matter came to the City Council as a whole.
22 Petitioners and their legal counsel gave testimony in opposition to the Application and the
23 MND. The Council denied the appeal; granted the haul route Application and certified and
24 adopted the MND.

25 22. The allegations below refer to information contained in numerous documents
26 that relate to the issues in this lawsuit. These documents will be filed as part of the record of
27 proceedings before the City, and are incorporated into this petition by reference.
28

1 ENVIRONMENTAL SETTING AND THE PROJECT

2 23. The Subject Property is located in the Hollywood Hills, in a subdivision built in
3 the 1960s. It is located approximately mid-way between Sunset Boulevard and the top ridge of
4 the Santa Monica Mountains to the north. There is no exit from this neighborhood to the north;
5 all traffic must enter and exit the neighborhood in which the Subject Property lies off of Sunset
6 Boulevard in the City of West Hollywood.

7 24. The streets in the neighborhood were named for birds - the neighborhood is
8 sometimes referred to as the “Bird Streets.” These streets, including Skylark, are sharply curvy,
9 narrow and steep as they wind through the steep sides of the Santa Monica Mountains and along
10 ridges on which were carved building pads. None of these streets, including Skylark, are either
11 straight or level for any appreciable length. It takes several streets to get into and out of the
12 neighborhood to the bottom of the hill at Sunset Boulevard. Few if any of the intersections in
13 this neighborhood are right angles, many of them are sharply acute.

14 25. Skylark Lane shares each these characteristics. Indeed, the MND accurately but
15 not overtly acknowledges the potential for significant impacts due to these conditions with two
16 observations: 1) “. . . there may be potentially significant traffic hazard impacts due to design
17 features within adjoining streets (Initial Study Section XVI.d. Transportation/Traffic); and 2)
18 the possibility of “impaired emergency access” (Initial Study Section XVI.e.) No details are
19 provided regarding what constitutes the “potentially significant traffic hazard impacts due to
20 design features” or what features or facts have “impaired emergency access.”

21 26. In addition to the facts stated above regarding the physical attributes of Skylark
22 Lane, another such material detail omitted from the MND that consists of a hazardous design
23 feature is the false statement that the width of Skylark Lane is 26 feet wide. In fact, Skylark
24 Lane generally is improved to 15-1/5 feet for much of the intended haul route and is 20 feet
25 wide in front of the Subject Property.

26 27. Respondents have conceded that Skylark Lane is a privately owned street
27 although such fact is not mentioned in the MND. The MND refers to Skylark Lane as a “minor
28 street.”

1 28. The MND also fails anywhere to mention the slope of Skylark Lane and the
2 other streets that will comprise the haul route from the Subject Property. Most of the proposed
3 haul route to Sunset Boulevard utilizes very steep and narrow streets. For most of its length,
4 Skylark Lane is similarly steep to the streets within the Trousdale Estates, located nearby in the
5 Santa Monica Mountains, immediately to the west of the Subject Property where two fatal
6 accidents have recently occurred related to the steepness of the streets similar to Skylark Lane.

7 29. Also, not disclosed in the MND or in any other part of the record is the
8 significant fact material to the potential for impacts on the environment that the Project
9 constitutes the seventeenth (17th) recent approval of a haul route within this same
10 neighborhood. This very relevant fact was raised at a separate hearing by the Board of Building
11 and Safety Commissioners on October 28, 2014. The record contains no information regarding
12 the potential of overlapping hauling by any of these 17 related projects such as might cause
13 significant conflicts and thereby constitute a significant cumulative impact.

14 30. While the MND acknowledges independent of related projects that the individual
15 hauling pertaining to the Project may be a potentially significant traffic hazard due to design
16 features (Initial Study Section XVI.d. Transportation/Traffic) and possibly impair emergency
17 access (Initial Study Section XVI.e. Transportation/Traffic) the MND utterly fails to consider
18 the obvious problem that concurrent hauling has the potential to exacerbate these individual
19 impacts and thus cause significant cumulative impacts threatening the health, safety, and
20 welfare of the neighborhood regarding these two identified potentially significant impacts
21 caused by the Project.

22 31. Respondents considered at a public hearing the acknowledged traffic hazards and
23 impairment of emergency access. The proposed mitigations discussed consisted of certain
24 traffic controls.

25 32. At the PLUM hearing, for the very first time, staff from the City's Department of
26 Building and Safety presented new information that in response to the potential cumulative
27 impacts of 17 haul routes in the same area, that they had recently implemented a so-called
28 "Monitoring Plan".

1 33. By having such "Monitoring Plan" and/or imposing certain traffic controls,
2 Respondents implicitly acknowledged the potential dangers to the public's health, safety and
3 welfare arising out of importance of these issues.

4 34. However, the so-called "Monitoring Plan" was never disclosed, discussed,
5 analyzed or included as a mitigation measure in the MND nor did the public ever have an
6 opportunity to review and comment on such "Monitoring Plan".

7 35. The "Monitoring Plan" was never made a part of the MND or conditions of
8 approval of the Haul Route that was adopted by the Respondents.

9 36. The Project consists of a new single-family residence with a partial basement
10 below most of 2 stories, and retaining walls up to 12 feet high.

11 37. The Subject Property is underlain by undocumented fill, soil, and granite
12 bedrock. It is located in a designated seismically induced landslide hazard zone, as shown on
13 the "Seismic Hazard Zones" map issued by the State of California. Real Party applied to
14 Respondents for a right to export 2,087 yards of earth from the Subject Property using large, 10-
15 wheel dump trucks. This extensive grading was made necessary by these unstable and not
16 conducive conditions including uncertified fill that must be addressed in construction at the
17 Subject Property.

18 38. Petitioners made every reasonable effort to raise the issues described
19 hereinabove at Respondent's public hearings regarding the Project. Petitioners raised the precise
20 objections described herein in writings dated October 16, 2014, appealing the determinations to
21 approve the Project by the Board of Building and Safety Commissioners and to the City Council
22 dated November 13, 2014, and in oral comments expressed at these hearings.

23 39. This petition pertains to Respondents' entire decision, including without
24 limitation a challenge to the permit granted under Board File 140059 (Haul Route); and the
25 certification of the MND granted under ENV-2014-2105-MND.
26
27
28

FIRST CAUSE OF ACTION
(Writ of Mandamus against Respondents for violation
of the California Environmental Quality Act)

40. Plaintiffs repeat, reallege and incorporate by reference each and every allegation contained in Paragraphs 1 -39, inclusive, as though fully set forth herein.

41. The California Environmental Quality Act, Public Resources Code, Sections 21000, et seq., "CEQA" imposes on defendants a duty to investigate and wherever feasible to mitigate to a level of insignificance all of the environmental impacts of its projects before approving any project. CEQA imposes many substantive duties which the City must comply with to ensure that all projects built subject to its jurisdiction have incorporated all feasible measures that can mitigate identified environmental impacts.

42. In taking the various actions set forth above, including the certification of MND under CEQA, the City has abused its discretion by failing to proceed in the manner required by law involving failures to meet the substantive and procedural requirements under CEQA.

43. The following is a list of the City's many failures to comply with applicable law under CEQA:

a. Failure to adequately describe critical elements regarding the environmental setting under CEQA Guidelines Section 15125(a), in particular, the many omissions regarding the material facts and details involving the hazardous design features of Skylark Lane only generally alluded to in the Initial Study that were germane to the issues and findings regarding the traffic and transportation impacts;

b. Failure to meet the CEQA requirements regarding the potential that the cumulative effect of the project's hauling may be significant and its incremental effect, though individually limited, is cumulatively considerable under CEQA Guidelines Section 15064(h), 15355 15130(b) including the failure to:

i. make a preliminary search for potential cumulative environmental impacts and a preliminary assessment of their significance regarding concurrently operating haul route permits;

1 ii. adequately describe all relevant facts including a list of past,
2 current and probably future projects in the vicinity and sharing the same roads for hauling
3 where it was known or should have been known that the Project was the 17th haul route permit
4 already issued and operative within the time frame as the Project with the potential that many of
5 these related projects may be hauling concurrently (CEQA Guidelines Section 15130(b)(1));

6 iii. adequately describe the severity and likelihood of occurrence of
7 cumulative impacts regarding concurrent hauling on streets with acknowledged hazardous
8 design features and the potential for impairment of emergency access (CEQA Guidelines
9 Section 15130(b))

10 iv. provide notice and an adequate opportunity for the public to
11 consider and comment on a so-called "Monitoring Plan" which was part of a presentation by
12 Building and Safety Department's staff at both the PLUM and Council's public hearings, which
13 presentation implicitly acknowledges and therefore constitutes substantial evidence of
14 significant cumulative impacts resulting at least in part from the Project in combination with
15 multiple projects hauling dirt concurrently (CEQA Guidelines Section 15130(a)(1))

16 v. utilize the correct legal standard for findings regarding cumulative
17 impacts when making the unsupported finding that there will be no cumulative impacts on the
18 basis that the Project's impacts when considered alone have been mitigated to a level of
19 insignificance (CEQA Guidelines Section 15355); and

20 vi. adequately support the finding that the Project will have no
21 significant cumulative impacts

22 c. Improper reliance on the presumed success of mitigation measures that
23 have not been formulated at the time of project approval, including:

24 i. the proposed mitigation of the acknowledged impairment of
25 Skylark Lane and interference with emergency access based on requirements to submit a future
26 Construction Staging and Parking Plan (MND Sec. VIII-40); a future emergency response plan
27 (MND Sec. VIII-70); a future parking and driveway plan (MND Sec. XVI-50); and
28

1 ii. the proposed mitigation of acknowledged soils and geology
2 impacts with requirements of a future submission of geological reports and further plans (MND
3 Secs. VI-10, VI-20; VI-50; and VI-60);

4 d. Improper reliance on an outdated and incorrect 2006 Geology & Soils
5 Report in making findings that there would be no significant impacts regarding soils and
6 geology, and the failure to include it as part of the Initial Study or MND thus depriving the
7 public of an opportunity to comment based on this omitted portion of the record.

8 e. Improper imposition of mitigation measures regarding identified aesthetic
9 impacts based on grading by imposing non-specific and boilerplate mitigation measures such as
10 “grading to be kept to a minimum” and natural features to be preserved, and compliance with
11 development guidelines (MND I-30).

12 f. Improper imposition of a legally infeasible and unenforceable mitigation
13 measure consisting of construction vehicle staging and traffic controllers using flags along the
14 part of Skylark Lane which is a private street; where the City lacks authority and/or jurisdiction,
15 it cannot be assumed the mitigation measure will be implemented.

16 g. Improper imposition of boilerplate conditions requiring compliance with
17 a noise ordinance and scheduling to avoid operating several pieces of equipment simultaneously
18 (MND Sec. XII-20).

19 h. Improper imposition of the certain traffic controls that had not been
20 previously disclosed to allow public review in advance or public comment despite
21 acknowledgement of traffic hazards and impairment of emergency access that constituted a
22 threat to the public’s health, safety and welfare.

23 i. Failure to disclose, analyze, discuss and/or include in the MND any
24 information about a “Monitoring Plan.”

25 j. Failure to disclose and allow public review and comment of the details of
26 any “Monitoring Plan” that City staff expressly told the PLUM Committee and the Council
27 would mitigate the impacts of traffic hazards and impairment of emergency access from the
28 Project.

1 44. Petitioners have exhausted their administrative remedies including the filing of
2 all available administrative appeals.

3 45. Petitioners have complied with Public Resources Code Section 21167.7 by
4 sending a copy of this petition with the California Attorney General. [Exhibit A].

5 46. Petitioners have complied with Public Resources Code Section 21167.5 by
6 providing the City with notice of intention to commence this action. [Exhibit B]

7 47. Petitioners elect to prepare the administrative record.

8 **SECOND CAUSE OF ACTION**

9 **(Writ of Mandamus against Respondents for violation of**

10 **Los Angeles Municipal Code Section 97.7006.7.5.5)**

11 48. Plaintiffs repeat, reallege and incorporate by reference each and every allegation
12 contained in Paragraphs 1-39, inclusive, and 41-47, inclusive as though fully set forth herein.

13 49. The BBSC must deny a haul route application where such will “endanger the
14 public health, safety and welfare” pursuant to Los Angeles Municipal Code Section
15 97.7006.7.5.5.

16 50. As set forth in the incorporated paragraphs, the conditions of approval of the haul
17 route are based upon a deficient MND and an outdated 2006 Geology & Soils Report.
18 Additionally the Project is located within the Hollywood Fault Zone; a landslide zone; and on
19 lots prone to landslide, lateral spreading, subsidence, liquefaction and collapse with significant
20 differentials in elevation and topography which can result in destabilization of slopes and loss of
21 topsoil.

22 51. There is substantial evidence in the record to support the finding that the haul
23 route based on a deficient MND and the failure to consider the many issues and facts raised
24 above will endanger the public health, safety and welfare.

25 52. Furthermore, the failure to impose as a part of the conditions of approval of the
26 haul route those certain traffic controls developed at a public hearing in response to the
27 Respondent’s acknowledgement of traffic hazards and impairment of emergency access
28 constitutes a threat to the public’s health, safety and welfare.

1 53. Therefore the findings Respondents made in support of the Project are not
2 supported by substantial evidence in the record.

3 54. The health, safety and welfare of the public and members of Petitioner Coalition,
4 as well as Petitioners Kessler, who reside at 1501 Skylark Lane, immediately down slope from
5 the Project are particularly threatened by the significant potential impacts from the Project.

6 WHEREFORE, Petitioners pray for judgment against Respondents, and each of them, as
7 follows:

8 1. That this court issues a writ of administrative mandamus directing Respondents
9 to set aside the certification of the ENV-2014-2105-MND (MND) for the Project;

10 2. That this court issues a writ of administrative mandamus directing Respondents
11 to set aside approvals of Board File 140059 (Haul Route) issued to the Real Party;

12 3. For a temporary restraining order, and preliminary and permanent injunctions
13 enjoining commencement of the Project including the haul route and any development activity
14 pursuant to the Project as described in the MND;

15 4. For costs of suit and attorneys' fees according to law; and

16 5. For such other and further relief as the Court may deem just and appropriate.

17
18 Dated: December 3, 2014

LUNA & GLUSHON



19
20 KRISTINA BADARAITE
21 Attorneys for Petitioners
22 BIRD STREET NEIGHBORS COALITION,
23 WARREN J. KESSLER, and JOAN B. KESSLER
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VERIFICATION

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STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

I have read the foregoing PETITION FOR WRIT OF ADMINISTRATIVE MANDAMUS AND COMPLAINT FOR DECLARATORY RELIEF and know its contents.

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to the matters which are stated on information and belief, and as to those matters I believe them to be true.

Executed on December 3, 2014 at Los Angeles, California.

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

WARREN J. KESSLER
Type or Print Name

Warren J. Kessler
Signature

Exhibit A

LUNA & GLUSHON

ATTORNEYS

16255 VENTURA BOULEVARD, SUITE 1016
ENCINO, CALIFORNIA 91436
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Century City Office
1801 Century Park East, Suite 2400
Los Angeles, CA 90067

December 8, 2014

VIA U.S. MAIL

California Attorney General
300 South Spring Street, Ste. 1700
Los Angeles, CA 90013

Re: Challenge Permit Board of Building and Safety Commission
File 140059 (Haul Route) and MND ENV-2014-2105-MND

Honorable Attorney General:

Please find enclosed a copy of the Petition for Writ of Mandate filed to challenge permits approved by the City of Los Angeles pursuant to an application for Review of Technical Reports and Import-Export Routes, Board of Building and Safety Commissioners Board File No.140059 (Haul Route), that Real Parties in Interest Jason P. Rubin, Trustee of the Jason P. Rubin Revocable Trust dated February 7, 2014, and Thomas Dumary III determined necessary and appropriate for the proposed development of a single-family home at 1540 North Skylark Lane. The City improperly certified a Mitigated Negative Declaration, granted under ENV-2014-2105-MND, for Real Parties' project and violated Los Angeles Municipal Code Section 97.7006.7.5.5, as more fully described in the enclosed Petition.

Please do not hesitate to contact us at any time with questions or concerns.

Very truly yours,

LUNA & GLUSHON

KRISTINA BADARAITE

Encl.: Petition for Writ of Mandate

Exhibit B

LUNA & GLUSHON

ATTORNEYS

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Holly L. Wolcott, City Clerk
City of Los Angeles
200 N. Spring Street, Room 360
Los Angeles, CA 90012

Re: Notice of Intent to Challenge Approval of the Haul Route
and MND ENV-2014-2105-MND

Dear Ms. Wolcott:

Please take notice that on behalf of the Bird Street Neighbors Coalition we intend to commence an action to challenge the City's approval of an application for Review of Technical Reports and Import-Export Routes, Board of Building and Safety Commissioners Board File No.140059 (Haul Route), that Real Parties in Interest Jason P. Rubin, Trustee of the Jason P. Rubin Revocable Trust dated February 7, 2014 and Thomas Dumary III determined necessary and appropriate for the proposed development of a single-family home at 1540 North Skylark Lane. The City improperly certified a Mitigated Negative Declaration, granted under ENV-2014-2105-MND, for Real Parties' project and violated Los Angeles Municipal Code Section 97.7006.7.5.5.

Very truly yours,

LUNA & GLUSHON



KRISTINA BADARANTE