

FILED

MAR 04 2019

FRESNO COUNTY SUPERIOR COURT

By _____ DEPUTY

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10 Attorneys for Respondents City of Fresno, and
City Council of City of Fresno

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FRESNO COUNTY SUPERIOR COURT
By: M. Sanchez, Deputy

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF FRESNO**

14 SOUTH CENTRAL NEIGHBORS UNITED,

Case No. 18CECG00690

15 Petitioner,

Judge: Hon. Rosemary T. McGuire
Dept.: 403

16 v.

17 CITY OF FRESNO, CITY COUNCIL OF
FRESNO, DOES 1-20,

**STIPULATION RE SETTLEMENT;
[PROPOSED] ORDER**

18 Respondents.

19
20 RICHARD CAGLIA; CAGLIA
ENVIRONMENTAL LLC dba CAGLIA
21 ENVIRONMENTAL; DOES 21 through 40,

Action Filed: February 23, 2018

22 Real Parties in Interest.

23 PEOPLE OF THE STATE OF CALIFORNIA
24 EX REL. XAVIER BECERRA, ATTORNEY
GENERAL

25 Petitioner-Intervenor.

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1 Through their undersigned counsel of record, Petitioner SOUTH CENTRAL NEIGHBORS
 2 UNITED ("Petitioner"); Petitioner-Intervenor PEOPLE OF THE STATE OF CALIFORNIA *ex rel.*
 3 XAVIER BECERRA, ATTORNEY GENERAL ("People"), Respondents CITY OF FRESNO and
 4 CITY COUNCIL OF FRESNO (collectively, "City"); and Real Parties in Interest RICHARD
 5 CAGLIA, CAGLIA ENVIRONMENTAL LLC dba CAGLIA ENVIRONMENTAL ("Real Parties")
 6 (collectively, the "Parties") stipulate as follows:

7 RECITALS

8 WHEREAS, on February 23, 2018, Petitioner filed a Petition for Writ of Mandate and
 9 Complaint for Injunctive Relief (the "Action") which includes four causes of action, for alleged
 10 violations of the California Environmental Quality Act ("CEQA") (Pub. Res. Code § 21000, *et seq.*)
 11 and alleged violations of the City of Fresno's Municipal Code and California planning and zoning
 12 law, relating to the January 25, 2018 decision of the City to approve the Development Permit
 13 Application No. D-16-109 proposed by Real Parties allowing for the development of an industrial
 14 park in the City of Fresno ("Project"), and to adopt Environmental Assessment No. D-16-109, a
 15 mitigated negative declaration (collectively, "Project Approvals"); and

16 WHEREAS, on June 13, 2018, the People filed a Petition for Writ of Mandate in Intervention
 17 challenging the Project Approvals; and

18 WHEREAS, by a letter dated January 8, 2019, Real Parties submitted a written request to the
 19 City's Director of Development and Resource Management Department that the Project Approvals be
 20 rescinded by the City; and

21 WHEREAS, on January 17, 2019, the City Council considered Real Parties' request and
 22 adopted Resolution No. 2019-003, which rescinded the approval of Development Permit Application
 23 No. D-16-109 and Environmental Assessment No. D-16-109, the mitigated negative declaration
 24 associated with the Project.

25 WHEREAS, due to a clerical error, Resolution No. 2019-003 incorrectly states that the City
 26 adopted the Project Approvals on January 8, 2018.

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STIPULATION

NOW, THEREFORE, IT IS HEREBY STIPULATED by and among the Parties, through their respective counsel of record, that:

1. The Action and petition in intervention filed by the People are now moot as a result of the City's adoption of Resolution No. 2019-003, which rescinded all Project Approvals.

2. The City shall pay to Petitioner's counsel \$151,300.00 in attorneys' fees and \$5,037.00 in costs within 15 days of the Court's approval of this stipulation as a full and complete settlement of any and all claims in the Action and petition in intervention filed by the People.

3. The Action filed by Petitioner and petition in intervention filed by the People shall be dismissed, without prejudice, upon the Court's approval of this Stipulation.

4. The Court shall retain jurisdiction over this Action pursuant to Code of Civil Procedure section 664.6 until the settlement payment of \$156,337.00 is made to Petitioner's counsel by the City.

5. Petitioner and the People agree not to pursue any further litigation concerning the City's rescinded Project Approvals, but do not waive any rights with respect to future approvals, including any decision to re-approve the Project.

6. The Parties shall each bear their own legal and representational fees and costs (including any court costs) associated with the Action and petition in intervention filed by the People, except as otherwise set forth in Paragraph 2 above.

7. Each party affirms the truth of the foregoing recitals and has authorized its respective counsel of record to execute this stipulation.

[SIGNATURES ON NEXT PAGE]

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ALESHIRE &
WYNDER, LLP
ATTORNEYS AT LAW



1 DATED: February 27, 2019

ALESHIRE & WYNDER, LLP

2
3 By: Anthony R. Taylor
4 ANTHONY R. TAYLOR
5 MICHAEL C. HUSTON

6 Attorneys for Respondents
7 CITY OF FRESNO and CITY COUNCIL OF
8 THE CITY OF FRESNO

9 DATED: February 27, 2019

SHUTE, MIHALY & WEINBERGER LLP

10 By: Ellison Folk
11 ELLISON FOLK
12 EDWARD T. SCHEXNAYDER

13 Attorneys for Petitioner
14 SOUTH CENTRAL NEIGHBORS UNITED

15 DATED: February __, 2019

LEADERSHIP COUNSEL FOR JUSTICE AND
ACCOUNTABILITY

17 By: _____
18 ASHLEY WERNER

19 Attorneys for Petitioner
20 SOUTH CENTRAL NEIGHBORS UNITED

21 DATED: February __, 2019

WANGER JONES HELSLEY PC

23 By: _____
24 JOHN P. KINSEY

25 Attorneys for Real Parties in Interest
26 RICHARD CAGLIA, CAGLIA
27 ENVIRONMENTAL LLC dba CAGLIA
28 ENVIRONMENTAL

1 DATED: February __, 2019

ALESHIRE & WYNDER, LLP

2
3 By: _____

4 ANTHONY R. TAYLOR
5 MICHAEL C. HUSTON
6 Attorneys for Respondents
CITY OF FRESNO and CITY COUNCIL OF
THE CITY OF FRESNO

7 DATED: February __, 2019

SHUTE, MIHALY & WEINBERGER LLP

8
9 By: _____

10 ELLISON FOLK
11 EDWARD T. SCHEXNAYDER

12 Attorneys for Petitioner
13 SOUTH CENTRAL NEIGHBORS UNITED
14 LEADERSHIP COUNSEL FOR JUSTICE AND
15 ACCOUNTABILITY

16 DATED: February 27, 2019

17 By: Ashley Werner

18 ASHLEY WERNER

19 Attorneys for Petitioner
20 SOUTH CENTRAL NEIGHBORS UNITED
21 WANGER JONES HELSLEY PC

22 DATED: February __, 2019

23 By: _____

24 JOHN P. KINSEY

25 Attorneys for Real Parties in Interest
26 RICHARD CAGLIA, CAGLIA
27 ENVIRONMENTAL LLC dba CAGLIA
28 ENVIRONMENTAL



1 DATED: February __, 2019

ALESHIRE & WYNDER, LLP

By: _____

ANTHONY R. TAYLOR
MICHAEL C. HUSTON

Attorneys for Respondents
CITY OF FRESNO and CITY COUNCIL OF
THE CITY OF FRESNO

8 DATED: February __, 2019

SHUTE, MIHALY & WEINBERGER LLP

By: _____

ELLISON FOLK
EDWARD T. SCHEXNAYDER

Attorneys for Petitioner
SOUTH CENTRAL NEIGHBORS UNITED

14 DATED: February __, 2019

LEADERSHIP COUNSEL FOR JUSTICE AND
ACCOUNTABILITY

By: _____


ASHLEY WERNER

Attorneys for Petitioner
SOUTH CENTRAL NEIGHBORS UNITED

20 DATED: February 27, 2019

WANGER JONES HELSLEY PC

By: _____


JOHN P. KINSEY

Attorneys for Real Parties in Interest
RICHARD CAGLIA, CAGLIA
ENVIRONMENTAL LLC dba CAGLIA
ENVIRONMENTAL

1 DATED: February 22, 2019

XAVIER BECERRA
ATTORNEY GENERAL OF CALIFORNIA

2
3
4 By:

SCOTT LICHTIG

Attorneys for PEOPLE OF THE STATE OF
CALIFORNIA EX REL. XAVIER BECERRA,
ATTORNEY GENERAL

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ALESHIRE &
WYNDER
ATTORNEYS AT LAW



1 ~~PROPOSED~~ ORDER

2 NOW, THEREFORE, based on the foregoing stipulation of the Parties and for good cause
3 shown, IT IS HEREBY ORDERED:

4 1. The Action is now moot as a result of the City's rescission of all Project Approvals.

5 2. The foregoing stipulation of the Parties is approved and this action is hereby dismissed
6 without prejudice.

7 3. The Court shall retain jurisdiction over the Action pursuant to Code of Civil Procedure
8 section 664.6 until the settlement payment of \$156,337.00 is made to Petitioner's counsel by the City.

9 *March 4*
10 Date: ~~February~~ 4, 2019

11 By: *Rosemary T. McGuire*
12 Hon. Rosemary T. McGuire
13 Judge of the Superior Court
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ALESHIRE &
WYNDELL
ATTORNEYS AT LAW





PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 18881 Von Karman Avenue, Suite 1700, Irvine, CA 92612.

On February 28, 2019, I served true copies of the following document(s) described as **STIPULATION RE SETTLEMENT; (PROPOSED) ORDER** on the interested 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 the practice of Aleshire & Wynder, LLP for collecting and processing correspondence for mailing. On the same day that 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. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at Irvine, California.

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address pvasquez@awattorneys.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 February 28, 2019, at Irvine, California.

Patricia A. Vasquez

SERVICE LIST
South Central Neighbors United v. City of Fresno
Case No. 18CECG00690

Ellison Folk, Esq. folk@smwlaw.com Edward T. Schexnayder, Esq. schexnayder@smwlaw.com Shute, Mihaly & Weinberger LLP 396 Hayes Street San Francisco, CA 94102	Attorney for SOUTH CENTRAL NEIGHBORS UNITED (Phone: 415) 552-7272 (Fax: 415) 552-5816
Ashley Werner awerner@leadershipcounsel.org Leadership Counsel for Justice and Accountability 764 P Street, Suite 012 Fresno, CA 93721	Attorney for SOUTH CENTRAL NEIGHBORS UNITED (Phone: 559) 369-2790
John P. Kinsey, Esq. jkinsey@wjhattorneys.com Wagner Jones Helsley PC 265 E. River Park Cir., Suite 310 Fresno, CA 93720	Attorney for RICHARD CAGLIA; CAGLIA ENVIRONMENTAL LLC dba CAGLIA ENVIRONMENTAL (Phone: 559) 233-4800, Ext. 216 (Fax: 559) 233-9330
Xavier Becerra Attorney General of California Christie Vosburg Supervising Deputy Attorney General Scott Lichtig scott.lichtig@doj.ca.gov Deputy Attorney General 1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550	People of the State of California ex rel. Xavier Beccera, Attorney General Phone: (916) 210-7815 Fax: (916) 327-2319