

1 Susan Brandt-Hawley/SBN 075907
 2 BRANDT-HAWLEY LAW GROUP
 3 Chauvet House, P.O. Box 1659
 4 Glen Ellen, CA. 95442
 Phone: 707.938.3908
 Fax: 707.576.0175

FILED

MAY 27 2003

BARBARA J. FOX, CLERK
 BY ~~BARBARA J. FOX~~
 DEPUTY, SANTA CRUZ COUNTY

Attorneys for Petitioner

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 IN AND FOR THE COUNTY OF SANTA CRUZ

LIGHTHOUSE FIELD BEACH
 RESCUE, an unincorporated
 association;

CASE NUMBER

CV 146505

Petitioner,
 v.

**PETITION FOR
 WRIT OF MANDAMUS**

CITY OF SANTA CRUZ and CITY
 OF SANTA CRUZ CITY COUNCIL;

California Environmental Quality Act
 [CEQA]

Respondents,

BY FAX

COUNTY OF SANTA CRUZ;
 CALIFORNIA DEPARTMENT OF
 PARKS AND RECREATION;
 CALIFORNIA COASTAL
 COMMISSION; and Does 1 to 10,

Real Parties in Interest.

Petition for Writ of Mandamus

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Filed By
 One Legal

1 Petitioner alleges:

2 **INTRODUCTION**

3 1. Petitioner Lighthouse Field Beach Rescue, an unincorporated association,
4 brings this mandamus action in the public interest under the California Environmental
5 Quality Act (CEQA) to challenge the unstudied decisions of the City of Santa Cruz
6 relating to amendments to the Lighthouse Field State Beach General Plan that remove
7 restrictions on unleashed dogs, envision moving the Lighthouse, expand the Park and
8 Recreation storage and bathrooms, widen coastal pathways, and allow additional
9 fences. The Plan amendments cannot lawfully proceed without preparation of an
10 environmental impact report to inform the City's decisions.

11 The administrative record supports the requisite "fair argument" that significant
12 potential effects on public health, safety, cultural resources, wildlife and biological
13 resources, and recreation may attend the adoption of the Plan amendments. Among the
14 impacts noted above, one of Petitioner's primary concerns is the amendment to the
15 Plan to permit the continuing and escalating presence of unleashed dogs at the Beach,
16 as is currently occurring *inconsistent* with the current Plan, and which is already
17 proving to have significant environmental impacts.

18 An EIR is required as a matter of law to assist the City's analysis of the
19 potential environmental impacts of the Plan amendments and to inform adoption of
20 feasible mitigations and Plan alternatives.

21 A peremptory writ should issue in the first instance.

22
23 **JURISDICTION**

24 2. This Court has jurisdiction under sections 21168 and 21168.5 of the Public
25 Resources Code (CEQA) and sections 1085 and 1094.5 of the Code of Civil
26 Procedure. All parties and properties are located in Santa Cruz County.

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PARTIES

3. Lighthouse Field Beach Rescue is an unincorporated association formed in May 2003, after Plan approval, for the protection of Santa Cruz beaches and environs. Lighthouse Field Beach Rescue brings this petition on behalf of all others similarly situated who are too numerous to be named and brought before this Court as petitioners. Lighthouse Field Beach Rescue members include persons living in Santa Cruz and its environs whose personal and aesthetic interests, including use and enjoyment of the Lighthouse Field State Beach, will be injured if the use of the beach is extended as proposed without adequate study and mitigation. Persons who are now members of Lighthouse Field Beach Rescue objected to the City's approval of the Plan amendments and exhausted their administrative remedies. Among the members of the group who objected to the Plan amendments are Peggy Pollard and Bill Strasser.

4. Respondents City of Santa Cruz and City of Santa Cruz City Council are the City and its elected legislative body that approved the amendment and together act as the lead agency under CEQA.

5. The County of Santa Cruz, the California Department of Parks and Recreation (DPR), and the California Coastal Commission are named as Real Parties in Interest. Lighthouse Field State Beach is owned by DPR and is operated under a joint City/County operations and maintenance agreement with the State. Development operations and maintenance are the responsibility of the City and County. If any of the named parties are not interested in this action and are not indispensable, they may request to be dismissed from the action and Petitioner will take action to do so. Does 1 to 10 are Real Parties in Interest whose true names and capacities are currently unknown to Petitioner. If and when their true names and capacities are known, Petitioner will amend this petition to assert them.

6. The paragraphs below refer to and rely on information in documents relating to this action, all of which will be filed with this Court as part of the administrative record of proceedings and all of which are here incorporated by reference.

GENERAL ALLEGATIONS

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7. The project proposes to revise the Lighthouse Field State Beach General Plan that was adopted by the City, County, and DPR in 1984. The Plan is also a part of the City's General Plan/Local Coastal Program (LCP). Approval of the Plan amendments is now pending before the County and DPR. Amendment of the LCP is pending before the California Coastal Commission.

8. Point Santa Cruz, locally known as Lighthouse Field State Park, forms the northern boundary of Monterey Bay. It is one of the last open headlands in any California urban area. During the 1890's Lighthouse Field was known as Phelan Park. It was the summer retreat of James Duval Phelan, the "California Medici," so named for his many splendid gifts to the people of California. Phelan was mayor of San Francisco and, later, a state senator. It was during Phelan's time that monarch butterflies were first recorded as using the eucalyptus and cypress trees on the Phelan estate as one of their wintering sites. Lighthouse Field State Beach (Beach) is located adjacent to West Cliff Drive at Lighthouse Point in the City. Existing improvements within the Beach property include visitor facilities, pathways and trails, roadways, parking, the Lighthouse/ Surfing Museum and restroom/maintenance facility. Abbott Memorial Lighthouse, which also houses California's first surfing museum, is located on Lighthouse Point. A paved pathway extends along the coastal bluff and many unpaved trails wind within the open field area. The paved multi-use West Cliff Drive pathway along the coastal bluff is part of the Monterey Bay Sanctuary Trail.

9. The Beach is protected as undeveloped coastal open space with unique natural resources, notably the monarch butterfly overwintering habitat and willow riparian forest areas, and is concurrently known for its recreational activities ranging from surfing and other ocean sports to sunbathing, children's sand play, sleeping, eating, walking, nature viewing, and photography. The paved multi-use West Cliff Drive pathway along the coastal bluff is used by walkers, joggers, bicyclists, and roller-skaters. On summer weekends, the pathway and Lighthouse Point provide a

1 gathering place for visitors and local residents.

2 10. According to the City's General Plan, Lighthouse Field is a sensitive habitat
3 for monarch butterflies, merlin and black swifts, peregrine falcon, and pigeon
-4 guillermot, as well as special status plant species including the artist's popcorn flower.
5 Twenty-six special status wildlife species exist in the vicinity. Four species are
6 considered significant users within the boundaries of the Lighthouse Field State
7 Beach. "Significant users" are defined as state or federal listed species which use
8 resources within the boundaries encompassing the grassland coastal bluff, rocky shore,
9 and beach, or other special status species which use onsite resources considered
10 critical in the maintenance of breeding or non-breeding populations. Hundreds of sea
11 lions bark and sun themselves on the rock offshore.

12 11. The 1984 Management Zones were revised in the proposed Plan
13 amendments and two new Management Areas were proposed with additional
14 guidelines for sensitive resource protection. Several Beach facilities proposed in the
15 1984 Plan are proposed to be eliminated. Anticipated development consists of
16 expansion and reconstruction of the existing restroom and maintenance building and
17 relocation of the Lighthouse/Surfing Museum due to coastal bluff erosion. The
18 coastal pathway is proposed to be widened in some areas.

19 12. The revised Plan also eliminates the current Plan's proviso that "Pets
20 should be restricted to leashes." Inconsistent with this requirement, in practice dogs
21 are currently permitted off-leash at the Beach from sunrise to 10am and 4pm to sunset,
22 per a posted order issued by the District Superintendent of the Department of Parks
23 and Recreation.

24 13. An Initial Study and Negative Declaration for the amended General Plan
25 were completed and circulated in January of 2003.

26 14. The Plan amendments were considered by the City Planning Commission at
27 a public hearing on April 3, 2003. Area residents, including persons that later formed
28 the Petitioner group, objected to the lack of study of the various amendments, and also

1 requested in writing and at the hearing that the Commission retain the current Plan
 2 language disallowing off-leash pets. An EIR was requested to assess the
 3 environmental impacts and feasible mitigation measures and alternatives to the
 4 proposed uses in order to protect the sensitive habitat and appropriate allocations of
 5 Beach use. Commentors noted that the EIR should study the potentially adverse
 6 effects of the Plan amendments, including the foreseeable move of the Light House
 7 onto the Beach field, expanding the Park and Recreation storage facilities, and the
 8 potential fencing of the field. Residents noted that these projects would conflict with
 9 the Plan provisions for revegetation of the grasslands and protection of the wetlands
 10 and willow areas. The Planning Commission considered the adoption of the Negative
 11 Declaration and whether to rescind or approve the amended Plan. The Commission
 12 recommended to the Council that none of these actions be taken.

13 15. The Plan amendments were considered before the City Council at a public
 14 hearing on April 22, 2003. Concerned Beach users again requested in writing and at
 15 the hearing that prior to a consideration of a change in Plan policy that would affect
 16 the environment, an EIR should be prepared to assess environmental impacts and
 17 available options. Current environmental problems relating to the increasing presence
 18 of unleashed dogs at Lighthouse Beach were documented, and speakers noted that the
 19 proposed elimination of any restriction on unleashed dogs would be a significant
 20 change in the Plan leading to ever-increasing canine use of the Beach. Among other
 21 environmental issues raised were the inconsistency of the Plan with resource and
 22 wildlife management, the unstudied intensity of uses at the Beach and its environs,
 23 conflict of uses, impeded use, conflict with the stated goals of the General Plan, noise,
 24 dog waste, aggressive dogs, health and safety, aesthetics, impacts to the riparian
 25 habitat, impacts to native grasses, interference with migratory and resident birds,
 26 nesting and wildlife nursery sites, traffic, water quality, exposure to feces- borne
 27 bacteria, parasites and communicable disease, transfer of canine distemper to marine
 28 animals, and impact on Monterey Bay Marine Sanctuary. Reference was made to a

1 Stanford University study finding that “[a]s with any introduced species, dogs set off a
2 cascade of effects in the ecosystem.”

3 17. Commentors noted that the City environmental review process failed to
4 acknowledge or study the extent and impact of dog activity on the Beach that has been
5 growing in the last 10 years, before which time the Beach and Lighthouse Field had
6 historically been off limits to dogs, on leash or off. Commentors further noted that the
7 need to control dogs in public places had been recognized by regulations County-
8 wide, reflecting a common sense and rational policy regarding dogs, that either
9 banned dogs from beaches and parks or required them to be leashed. Testimony was
10 presented that now “on a typical sunny day during the summer it has not been
11 uncommon to see as many as 60 dogs running loose on the beach throughout the day
12 . . . people without dogs now tend to avoid the beach because the nature of the off-
13 leash dog presence is so annoying.” Allowing off-leash dogs into the park and onto the
14 Beach was presented as the single most significant adverse impact to the park and its
15 visitors. Dog behaviors explained as incompatible with the recreational use of the
16 Beach included constant barking, yowling, fighting, hunting for prey, chasing,
17 digging, sniffing, begging for food, stealing food, running over people, shaking off
18 water next to people, chasing and disturbing wild animals, marking of territory on
19 towels and sand castles, defecating on the beach, owners kicking a thin layer of sand
20 over the feces that lead to people stepping sitting and playing in fouled areas, facing
21 off against children who are playing at eye level, intimidation of children and other
22 beach goers, and chasing skim boarders.

23 18. On April 22, 2003 the City Council voted to approve the amended Plan and
24 to adopt the Negative Declaration without mitigations.

25 19. The Notice of Determination was filed on April 25, 2003. The 30-day
26 statute of limitations ran on Sunday, May 25, 2003. Since Monday, May 26, 2003,
27 was a holiday, this action is timely filed on Tuesday, May 27, 2003.

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1 the Lighthouse and the impacts and mitigations for dog use at the Beach.

2 d. The City's findings certifying the Negative Declaration are inadequate and
3 incomplete and are not supported by substantial evidence in the record.

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5 **WHEREFORE, Petitioner prays:**

6 1. That the Court issue a peremptory writ of mandate ordering respondents City
7 of Santa Cruz and its City Council to set aside and void all approvals relative to the
8 proposed amendments to the Lighthouse Field State Beach General Plan, Santa Cruz
9 General Plan, and LCP, and refrain from further consideration of approval until full
10 compliance with CEQA is achieved, including certification of an adequate
11 environmental impact report and adoption of feasible project mitigations and
12 alternatives based on findings supported by substantial evidence in the record;

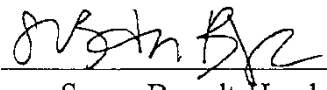
13 2. That the Court issue an administrative stay order, temporary restraining
14 order, and/or preliminary injunction enjoining the City and its agents from any actions
15 in furtherance of the Plan Amendments while this Petition is pending;

16 3. For Petitioner's costs and attorney fees pursuant to CCP section 1021.5; and

17 4. For such other and further relief as the Court finds proper.

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19 Dated: May 27, 2003

BRANDT-HAWLEY LAW GROUP

20 By 
21 Susan Brandt-Hawley
22 Attorney for Petitioner

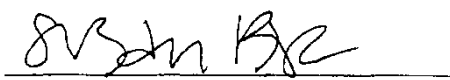
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24 **VERIFICATION**

25 I, Susan Brandt-Hawley, am the attorney for Petitioner who is located outside of
26 Sonoma County where I have my law offices, and so I verify this petition on its behalf.
27 I have read the Petition for Writ of Mandamus and know its contents. The matters
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stated in it are true and correct based on my knowledge, except as to the matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the above is true and correct. Executed this 27th day of May, 2003, at Glen Ellen, California.



Susan Brandt-Hawley