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COMITE PROGRESO DE LAMONT,
COMMITTEE FOR A BETTER SHAFTER,
COMMITTEE FOR A BETTER ARVIN,
LOST HILLS IN ACTION,
ASSOCIATION OF IRRITATED RESIDENTS,
and CLEAN WATER ACTION,

Petitioners/Plaintiffs,

v.

SAN JOAQUIN VALLEY UNIFIED AIR
POLLUTION CONTROL DISTRICT,

Respondents/Defendants,

DOES 1 through 30, inclusive,

Real Parties in Interest.

Case No:

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

[Code Civ. Proc., §§ 1085, 1060, 526]

1 **INTRODUCTION**

2 1. California has the largest concentration of petroleum refineries in the western United
3 States, and the third largest number of refineries in the nation after Texas and Louisiana. These
4 refineries are scattered throughout the state, from urban areas such as Los Angeles and the San
5 Francisco Bay Area to rural communities in central California’s San Joaquin Valley. Refineries in
6 the San Joaquin Valley are concentrated in and around Bakersfield within Kern County, the largest
7 oil-producing and most polluted county in the state. This region suffers from the worst air quality in
8 the United States, including harmful levels of lung-searing ozone that compromises lung
9 development in children and causes other health complications. Oil and gas operations in the region
10 exacerbate these unhealthy air conditions.

11 2. Refineries routinely subject nearby residents to health burdens from a broad range of
12 processes, including gasoline production, asphalt, road oils, and gasoline blending. According to the
13 California Office of Environmental Health Hazard Assessment, these refinery processes regularly
14 release a number of 188 known toxic air contaminants and several ozone precursors, such as
15 particulate matter and nitrogen oxides. Among these toxic air pollutants are benzene, ammonia,
16 formaldehyde, and naphthalene. Several of these contaminants have devastating health consequences
17 from short-term and long-term exposures, including neurological damage in infants, leukemia, and
18 decreased lung function.

19 3. In addition to negative health effects, refineries are inherently dangerous operations
20 that often experience explosions, flaring, and fires from malfunctions. These events create life-
21 threatening situations for not only on-site workers but also communities near these hazardous
22 industrial operations. In fact, during the past few years, refineries in Kern County have experienced
23 these potentially catastrophic incidents, alarming local residents and causing several on-site injuries.

24 4. Prompted by the need to alert residents of dangerous refinery malfunctions and to
25 create transparency into the amount and types of harmful air emissions crossing refinery fencelines
26 and entering communities, Governor Jerry Brown signed Assembly Bill 1647 on October 8, 2017,
27 codifying Health and Safety Code section 42705.6. Under Section 42705.6, all petroleum refineries
28 in the state must design, install, and operate real-time fenceline air monitoring by January 1, 2020,

1 based on air district guidance. In addition, air districts must design, install, and operate real-time
2 community air monitoring systems near sensitive receptors, such as schools, hospitals, and day care
3 centers, by the same statutory deadline. The air emissions data from these systems must be publicly
4 available to inform local residents, including air district regulators and emergency first-responders,
5 of hazardous pollution levels from refinery operations and potential pollution sources at refineries
6 requiring repairs or other changes to reduce emissions.

7 5. The San Joaquin Valley Unified Air Pollution Control District (Valley Air) is the
8 regional air district tasked with regulating stationary sources of air pollution throughout the San
9 Joaquin Valley, including refineries in Kern County. Its mission is to “improve the health and
10 quality of life” for families throughout the region. In that capacity, the air district is responsible for
11 implementing Section 42705.6 by developing guidance materials and rules for the preparation,
12 review, and approval of refinery fenceline and refinery-adjacent community air monitoring system
13 plans.

14 6. Valley Air neglected to commence a public rulemaking process throughout 2018 and
15 most of 2019 to develop the necessary guidance materials and rules to implement Section 42705.6.
16 Air district staff, however, engaged in closed-door meetings with area refineries to discuss and
17 develop key aspects of these rules, without public notice and input. Only after a failed legislative
18 effort in September 2019 by industry lobbyists to create a last-minute exemption for certain
19 refineries under Section 42705.6, Valley Air scheduled the first public rulemaking meeting on
20 October 3, 2019—a mere *three* months before Section 42705.6’s January 1, 2020, compliance
21 deadline for refinery fenceline and related community air monitoring systems to be operational.

22 7. At the public meeting on October 3, the air district provided a general overview of
23 proposed Rule 4460 to implement refinery fenceline air monitoring and Rule 3200 establishing
24 refinery fees to fund community air monitoring systems. After a second public meeting on
25 November 5, Valley Air published final rules on November 19. Throughout these public meetings,
26 environmental and health organizations raised serious deficiencies in the rules and the air district’s
27 compliance with Section 42705.6’s mandates. Despite community concerns, Valley Air’s Governing
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1 Board adopted the rules on December 19, 2019, without amendments or the required guidance
2 materials.

3 8. Throughout this rulemaking process, Valley Air prioritized oil industry interests over
4 public health and safety, and its statutory obligations under Section 42705.6. The agency provided
5 unlawful exemptions, neglected to prepare required guidance materials, set the stage for continued
6 noncompliance, and prepared rules that arbitrarily limit the range of pollutants for monitoring and
7 number of community air monitoring sites.

8 9. The air district's actions jeopardize the health and safety of families that live, work,
9 and play near these refineries in the San Joaquin Valley. Valley Air denied communities near
10 refineries in the region transparency into dangerous releases from refinery malfunctions and real-
11 time emissions information about the range of air pollutants crossing the fenceline and entering their
12 neighborhoods. Petitioners bring this action to secure the air district's compliance with its statutory
13 obligations, and to protect the health and wellbeing of their members and families in the region.

14 **PARTIES**

15 10. Petitioner COMITE PROGRESO DE LAMONT (CPL) is a community-based
16 organization in Kern County. Lamont is a small farming community south-southeast of downtown
17 Bakersfield, within less than fifteen miles of all four of the refineries located in the San Joaquin
18 Valley. CPL's mission is "to achieve a healthy environment in Lamont, and to improve community
19 infrastructure and the quality of the lives of Lamont residents, by involving the community and
20 creating a voice to be able to advocate and deal with issues that Lamont is facing." CPL's members
21 actively engage on issues relating to oil and gas activity, both locally and statewide. Mountain View
22 Middle School in Lamont is approximately one mile from Kern Oil & Refining Co., a refinery. CPL
23 has serious concerns about the impact Valley Air's unlawful actions will have on its members who
24 work and live in close proximity to the refineries at issue.

25 11. Petitioner COMMITTEE FOR A BETTER SHAFTER (CBS) is a California non-
26 profit organization based in Kern County. CBS's members reside in Shafter, California, which has a
27 population of about 20,000 people. CBS's mission is to advocate for environmental health, to
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1 support the development of economically and environmentally sustainable jobs, to develop and
2 promote community garden projects, and to support community development programs in south
3 San Joaquin Valley and Shafter. In addition, CBS strives to empower community members to be
4 active and involved in civic engagement. CBS and its members actively engage on climate issues,
5 particularly the issue of oil and gas operations, locally, regionally and statewide. CBS, whose
6 volunteers and members live in Kern County, is concerned about the health of local residents and the
7 impacts that Valley Air's rules will have on their communities.

8 12. Petitioner COMMITTEE FOR A BETTER ARVIN (CBA) is a California non-profit
9 organization based in Kern County. CBA's fifty members reside in Arvin, California, which has a
10 population of nearly 20,000 people. CBA's mission is to improve the quality of life in Arvin, to
11 inform and unite the community, to address problems facing the community, and to secure equality
12 for all residents. CBA and its members have engaged in advocacy for improved local and regional
13 air quality for many years and are concerned about the safety and health impacts of oil and gas
14 operations in the San Joaquin Valley. CBA is concerned about the impacts Valley Air's unlawful
15 rules and non-compliance with the Health and Safety Code will have on their members.

16 13. Petitioner LOST HILLS IN ACTION (LHA) is a grassroots community-based
17 organization in Kern County. Lost Hills is a community of about 2,400 residents, tucked between the
18 I-5 and the Lost Hills Oilfield in Western Kern County. Local air quality is a perennial concern for
19 LHA members who are surrounded by oil and gas wells, freeway traffic, and pesticide applications.
20 LHA members frequently engage in local, regional, and statewide issues relating to oil and gas
21 activity. California Air Resources Board selected Lost Hills as the first community to undergo the
22 "Study of Neighborhood Air Near Petroleum Sources" (SNAPS) to monitor and identify pollution
23 contributing to local air quality. LHA is concerned about Valley Air's refusal to comply with the
24 Health and Safety Code as monitoring and identifying pollution sources throughout the San Joaquin
25 Valley is important to their members.

26 14. Petitioner ASSOCIATION OF IRRITATED RESIDENTS (AIR) is a California non-
27 profit organization based in Kern County. AIR formed in 1991 to advocate for clean air and
28 environmental justice throughout California's San Joaquin Valley. AIR has dozens of members who

1 reside in Kern, Tulare, Kings, Fresno, and Stanislaus counties. AIR members through themselves,
2 their families, and friends, have direct experience with the health impacts and safety hazards that
3 arise from operations at refineries in the region. AIR is concerned about Valley Air’s unlawful rules
4 and failure to comply with the Health and Safety Code.

5 15. Petitioner CLEAN WATER ACTION (CWA) is a non-profit organization with
6 approximately 700,000 members across the United States. CWA’s mission is to protect the
7 “environment, health, and economic well-being and community quality of life.” CWA’s efforts
8 include addressing pollution from oil and gas activities in the San Joaquin Valley. CWA’s members
9 in and around Kern County are concerned about the health and safety impacts caused by refineries in
10 the region, and Valley Air’s unlawful actions and non-compliance with the Health and Safety Code.

11 16. Respondent SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL
12 DISTRICT (Valley Air) is an air quality regulatory agency with “primary responsibility for control
13 of air pollution from all sources, other than emissions from motor vehicles” in the San Joaquin
14 Valley Basin. (Health & Saf. Code, §§ 40000, 40600(a).) Valley Air serves a central role in
15 implementing both the federal Clean Air Act and the California Clean Air Act in the Basin, which
16 includes Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare counties, in addition to
17 a portion of the County of Kern. (Cal. Code Regs., tit. 17, § 60107.)

18 17. By this action, Petitioners seek to protect the health and welfare of their members,
19 including the public. Petitioners’ members have an interest in their health and well-being, and in the
20 health and well-being of others, including residents living near petroleum refineries in Kern County.
21 Unless the court grants the relief requested in this case, Petitioners’ members and the public will
22 suffer adverse effects and irreparable injuries from Valley Air’s failure to comply with the Health
23 and Safety Code.

24 18. At this time, Petitioners do not know the true names and capacities, whether
25 individual, corporate, associate, or otherwise, of Real Parties in Interest DOE 1 through DOE 30,
26 inclusive, and therefore sues said Real Parties in Interest DOE 1 through DOE 30, inclusive, under
27 such fictitious names. Petitioners will amend this Petition and Complaint to show their true names
28 and capacities when known.

1 **JURISDICTION AND VENUE**

2 19. This Court has jurisdiction over the matters alleged in this Petition under Code of
3 Civil Procedure sections 526, 1060 and 1085.

4 20. Venue is proper in the Superior Court of California, County of Fresno under Code of
5 Civil Procedure section 395 because Valley Air’s headquarters is located in the County of Fresno.

6 21. Petitioners have performed all conditions precedent to filing this instant action and
7 have exhausted all available remedies to the extent required by law.

8 22. Petitioners do not have a plain, speedy, or adequate remedy at law unless this Court
9 grants the requested writ of mandate to require that Valley Air meet its statutory obligations and
10 adopt rules that comply with California’s Health and Safety Code.

11 **STATUTORY BACKGROUND**

12 23. Petroleum refineries engage in a range of processes involving the storage and
13 manufacture of petroleum products. These processes include not only crude oil refining to produce
14 gasoline and other transportation fuels, but also other refining activities that encompass gasoline
15 blending and the production of asphalt materials and road oils for paving.

16 24. Regardless of their size and location, refineries are inherently dangerous operations
17 that experience fires, explosions, and flaring events from malfunctions and other process upsets.
18 Several incidents at California refineries in recent years illustrate the hazards these operations pose
19 to onsite workers and surrounding communities. For instance, on August 6, 2012, a large fire at the
20 Chevron Refinery in Richmond resulted in a plume of black smoke visible for miles, forcing
21 thousands of residents to seek medical treatment for respiratory distress. On February 18, 2015, an
22 explosion occurred at the ExxonMobil refinery in Torrance, injuring several workers and creating a
23 1.7 magnitude earthquake felt miles from the refinery. The explosion propelled an 80,000-pound
24 component that narrowly missed a tank containing hydrogen fluoride, an extremely volatile chemical
25 with the potential to kill or injure thousands of residents near the refinery.

26 25. These emergencies are not exclusive to larger refinery operations in urban areas.
27 Several hazardous incidents have also occurred at refineries in rural parts of the San Joaquin Valley
28 over the years. For example, on January 19, 2005, an explosion at Kern Oil & Refining in

1 Bakersfield killed one worker and severely burned two others. On December 23, 2010, an oil tanker
2 truck caught fire and exploded near a 42,000-gallon oil storage tank at San Joaquin Refining Co. in
3 Bakersfield, threatening a major catastrophe and injuring several workers. On November 29, 2011, a
4 2.5 million gallon storage tank exploded and caught fire at Alon Bakersfield Refining, rattling
5 nearby businesses and residents, and creating a plume of black smoke visible for miles. More
6 recently, on January 8, 2018, fire crews responded to a large fire inside a cooling tower at Kern Oil
7 & Refining Co.

8 26. In addition to safety hazards, official air emissions inventories reported by refineries
9 to air districts from routine operations reveal that refineries are among the largest stationary sources
10 of air pollution in the state. All refineries in the state are required to submit emissions inventories
11 annually to local air districts, providing these regulatory agencies with an estimate or approximation
12 of the total air pollution released by each refinery during the prior year.

13 27. These official air emissions inventories confirm that refineries routinely release
14 significant quantities of volatile organic compounds (VOCs) and criteria pollutants, such as nitrogen
15 oxides and particulate matter, which worsen air quality and negatively impact public health. For
16 instance, ground level ozone forms through a chemical reaction between nitrogen oxides and VOCs
17 in the presence of sunlight. Ozone can cause premature death from asthma and other respiratory
18 illnesses, and compromises lung development in children.

19 28. Similarly, fine particulate matter 10 or 2.5 micrometers in diameter are smaller than
20 the width of a single hair and able to penetrate deep into the lungs and enter the bloodstream. These
21 particulates contribute to cardiovascular and respiratory disease, including strokes, lung cancer, and
22 asthma. In the San Joaquin Valley area, Kern County is in non-attainment of federal ozone and
23 particulate matter standards set to protect public health.

24 29. Moreover, a report published by the California Office of Environmental Health
25 Hazard Assessment reviewed previous annual refinery emissions inventories and found that
26 refineries release a number of 188 toxic air contaminants and hazardous VOCs, including benzene,
27 toluene, hydrogen sulfide, formaldehyde, ammonia, and naphthalene. These toxic emissions can
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1 have short-term and long-term health consequences for surrounding communities, including cancer,
2 tumors, developmental defects, memory impairment, cataracts, and tremors.

3 30. Notably, annual official air emissions inventories reported by refineries to air districts
4 severely underestimate *actual* emissions. These inventories fail to capture releases from fugitive
5 emissions or leaks from various sources at refineries, including process equipment, storage tanks,
6 and malfunctions that bypass pollution controls. If unaddressed, these fugitive emissions can release
7 large amounts of VOCs and other pollutants into the environment and harm public health.

8 31. Given these refinery safety hazards and significant air emissions, communities near
9 refineries throughout California have grown increasingly concerned about potentially catastrophic
10 incidents and harmful releases. In an effort to identify pollution sources at all refineries, to inform
11 appropriate measures to reduce emissions, and to alert residents when pollution levels become
12 hazardous, Assemblymember Al Muratsuchi introduced Assembly Bill (AB) 1647 on February 17,
13 2017, to amend the Health and Safety Code to add section 42705.6. As noted by Assemblymember
14 Muratsuchi, the intent of Section 42705.6 was to cover “all California refineries” and surrounding
15 communities.

16 32. Section 42705.6 required that by January 1, 2020, “the owner or operator of a
17 petroleum refinery shall develop, install, operate, and maintain a fence-line monitoring system in
18 accordance with guidance developed by the appropriate district.” (Health & Saf. Code, §
19 42705.6(c).) The statute defines fenceline monitoring as systems “useful for detecting or estimating
20 the quantity of fugitive emissions, gas leaks, and other air emissions” from refineries. (Health & Saf.
21 Code, § 42705.6(a)(2).)

22 33. Similarly, each air district “shall design, develop, install, operate, and maintain the
23 refinery-related community air monitoring system[s]” by January 1, 2020. (Health & Saf. Code, §
24 42705.6(b)(1).) These community air-monitoring systems should be located “at or near sensitive
25 receptor locations near a petroleum refinery” and “may be useful for estimating associated pollutant
26 exposures and health risks and in determining trends in air pollutant levels over time.” (Health &
27 Saf. Code, § 42705.6(a)(1).)

1 40. On February 5, 2019, Valley Air published a rule forecast for 2019, noting the air
2 district would “work closely with affected stakeholders through a robust public process” to develop
3 rules implementing Section 42705.6. Accordingly, the forecast stated air district staff would “hold a
4 Scoping Meeting in early 2019 to receive public input on the development” of these rules.

5 41. Valley Air, however, did not hold this public scoping meeting or invite public input
6 on these implementing rules. Instead, communication records reveal that starting in April 2019, the
7 air district engaged in closed-door meetings and telephone calls with refineries in the region to
8 discuss and develop these rules. For instance, e-mail records from these meetings note the air
9 district’s willingness to consider the refineries’ suggestion to “separat[e] the facilities based on size
10 into different categories for monitoring purposes.”

11 42. In September 2019, towards the end of the legislative session, Assemblymember
12 Rudy Salas from Bakersfield used an unsuccessful “gut-and-amend” legislative tactic to create a
13 last-minute exemption under Section 42705.6 for refineries processing below 55,000 barrels per day
14 and with populations of under 3,000 within a one-mile radius. The bill would have benefitted rural
15 refineries in Kern County, in particular Kern Oil & Refining Co. However, due to strong opposition
16 from public health and environmental groups, including several Petitioners, the bill failed to pass.

17 43. After this failed legislative effort by oil lobbyists, Valley Air finally scheduled a
18 public meeting on October 3, 2019, to discuss implementing rules—a mere *three* months before the
19 January 1, 2020, compliance deadline under Section 42705.6 for refineries and the air district to
20 begin operating air monitoring systems. At this meeting, the air district provided an update on two
21 rules to implement Section 42705.6’s requirements: Rule 4460 establishing the general
22 requirements, and the air district’s review and approval process for refinery fenceline air monitoring
23 plans, and Rule 3200 setting refinery fees to fund the air district’s refinery-related community air
24 monitoring systems.

25 44. On November 5, Valley Air held a second public meeting on these rules. During both
26 the October 3 and November 5 public meetings, the air district neglected to discuss the status of
27 statutorily mandated guidance materials and to provide for public input on those materials. (Health
28 & Saf. Code, § 42705.6(e).)

1 whatsoever with Section 42705.6's requirements, and narrow the range of air pollutants for
2 monitoring by the remaining two refineries.

3 50. First, the rules provide a compliance exemption to refineries "not currently engaged
4 in refining crude oil," after the submission of declarations asserting the refineries are "not refining
5 crude oil." These exempt refineries are not required to plan and install fence-line air monitoring
6 systems, nor pay the necessary fees to fund the air district's development, installation, and operation
7 of refinery-related community air monitoring systems. According to Valley Air, this compliance
8 exemption applies to Alon Bakersfield Refining and Tricor Refining LLC refineries that are
9 purportedly not currently "refining crude oil."

10 51. Reported air emissions inventories, however, confirm these refineries continue to
11 engage in a variety of other petroleum refining activities that release a number of pollutants into
12 surrounding communities, even if not "refining crude oil." Notably, these refineries hold valid
13 operating permits to refine crude and must comply with other federal and state laws and regulations,
14 including Valley Air rules, applicable to petroleum refineries despite not currently "refining crude
15 oil."

16 52. Second, the rules exempt refineries from monitoring air pollutants based on "crude
17 oil" refining capacity. Under Rule 4460, refineries with a capacity of less than 40,000 "barrels per
18 day" (bpd) of "crude oil" need only consider monitoring a limited number of pollutants, namely
19 sulfur dioxide, hydrogen sulfide, and BTEX compounds (benzene, toluene, ethylbenzene, and
20 xylene).

21 53. Refineries with a capacity of 40,000 bpd or more, however, must consider these
22 pollutants and several others for monitoring, including total volatile organic compounds (VOCs),
23 ammonia, nitrogen oxides, and black carbon. Rule 3200 incorporates this monitoring exemption into
24 refinery-related community air monitoring requirements, providing for reduced air pollutant tracking
25 and fees for refineries with a capacity of less than 40,000 bpd.

26 54. This monitoring exemption applies to San Joaquin Refining Co. and Kern Oil &
27 Refining Co. because they are currently "refining crude oil." Reported air emissions inventories,
28 however, confirm routine operations at these refineries release several air pollutants Rule 4460

1 exempts the refineries from considering for monitoring, such as total VOCs, ammonia, nitrogen
2 oxides, and black carbon. Notably, these emissions inventories do not account for all fugitive
3 emissions and releases from malfunctions and other non-routine events.

4 55. The air district’s monitoring exemptions undermine Section 42705.6’s purpose to
5 detect and estimate “the quantity of fugitive emissions, gas leaks, and other air emissions” at
6 refineries. (Health & Saf. Code, § 42705.6(a)(2).) Moreover, the exemptions compromise the ability
7 to estimate “associated pollutant exposures and health risks and in determining trends in air pollutant
8 levels over time” using community air monitoring systems. (Health & Saf. Code, § 42705.6(a)(1).)

9 56. On its face, Section 42705.6 does not provide any exemptions to refineries or narrow
10 the application of the statute to refineries solely engaged in “crude oil” refining. Valley Air’s
11 interpretation of Section 42705.6 as authorizing the creation of exemptions for refineries based on
12 “crude oil” refining activity or capacity is unlawful and contrary to the plain, commonsense meaning
13 of the language in the statute.

14 **SECOND CAUSE OF ACTION**

15 **(Traditional Mandate: Violation of the Health &**
16 **Safety Code—Failure to Prepare Guidance)**

17 57. Petitioners incorporate by reference the allegations set forth in paragraphs 1 through
18 56 above.

19 58. Section 42705.6 requires Valley Air to prepare “guidance” documents for the
20 development, installation, operation, and maintenance of refinery fenceline and refinery-related
21 community air monitoring systems. (Health & Saf. Code, § 42705.6(b)(1), (c).)

22 59. Guidance materials assist in standardizing and preparing the monitoring systems and
23 plans, including location of monitoring equipment, standard operating procedures, equipment
24 maintenance procedures, and public notification features. These guidance materials are distinct from
25 implementing Rule 4460, which establishes the monitoring plan review and approval process,
26 general monitoring plan elements, range of pollutants subject to monitoring, among other basic
27 requirements.

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1 hydrogen cyanide, hydrogen fluoride, and black carbon. This requirement would apply primarily to
2 Alon Bakersfield Refining (66,000 bpd capacity).

3 79. Refineries with a capacity of less than 40,000 bpd, however, must monitor a very
4 limited number of pollutants—merely six of the air district identified pollutants. As a result, Kern
5 Oil & Refining Co. (26,000 bpd capacity), San Joaquin Refining Co. (15,000 bpd capacity), and
6 Tricor Refining LLC (12,500 bpd capacity) will not monitor for most of the pollutants identified by
7 the air district.

8 80. Valley Air’s staff report, however, does not provide evidentiary support for the
9 limited air pollutant monitoring requirements for the three refineries with a capacity of less than
10 40,000 bpd. The staff report concludes, without any evidence or detail, that “some listed pollutants
11 may not be present at a particular facility.” Valley Air failed to provide any rational connection
12 between the 40,000 bpd threshold and creating an exemption from monitoring pollutants from
13 refining activities.

14 81. Emissions data confirms these three exempt refineries release significant amounts of
15 several pollutants identified by the air district, including VOCs, nitrogen oxides, ammonia, and black
16 carbon. Despite this evidence, Rule 4460 arbitrarily permits these three refineries to monitor only for
17 a small subset of pollutants.

18 82. Valley Air’s decision to limit air pollutant-monitoring requirements and foreclose
19 consideration of other pollutants for refineries with a capacity of less than 40,000 bpd is arbitrary,
20 capricious, and entirely lacking in evidentiary support. Rule 4460 allows refineries to “not monitor
21 one or more of the specified pollutants” after providing “sufficient justification.” Rather than require
22 refineries to consider the full range of pollutants, regardless of bpd capacity, and then justify any
23 exclusion, the rule forecloses that opportunity. Instead, the rule only requires refineries with a
24 capacity of less than 40,000 bpd to monitor for an incomplete and arbitrary list of pollutants.

25 83. Further, in this rulemaking, the agency failed to consider other relevant factors
26 outlined in Section 42705.6, including whether the range of selected pollutants will be “useful for
27 detecting or estimating the quantity of fugitive emissions, gas leaks, and other air emissions from the
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1 refinery.” (Health & Saf. Code, § 42705.6(a)(2).) Consequently, Valley Air failed to establish a
2 rational connection between its decision and the relevant factors and purpose of Section 42705.6.

3 b. Arbitrary Community Air Monitoring Requirements

4 84. Section 42705.6 requires community air monitoring “at or near sensitive receptor
5 locations” that “may be useful for estimating associated pollutant exposures and health risks and in
6 determining trends in air pollution levels over time.” (Health & Saf. Code, § 42705.6(a)(1).)
7 Petroleum refineries are responsible for the air district’s costs of implementing community air
8 monitoring. (Health & Saf. Code, § 42705.6(f)(1).)

9 85. Rule 3200 establishes the fees for Valley Air to install, operate, and maintain
10 community air monitoring equipment. These fees provide for one community air monitoring station
11 per refinery, and fund pre-determined equipment to track the same arbitrary list of pollutants under
12 Rule 4460. Valley Air’s decision to provide only for a single community air monitoring station per
13 refinery is arbitrary, capricious, and entirely lacking in evidentiary support.

14 86. The air district staff failed to explain and the staff report lacks any evidence
15 supporting the sufficiency of a single community monitoring station to “estimat[e] associated
16 pollutant exposures and health risks” and to “determin[e] trends in air pollutant levels over time.”
17 (Health & Saf. Code, § 42705.6(a)(1).) Valley Air failed to detail and consider relevant factors,
18 including the location of sensitive receptors, topography in the area, and meteorological and
19 atmospheric conditions. These factors inform the appropriate number and placement of community
20 air monitoring stations.

21 87. Moreover, the rule applies the same arbitrary and capricious limited air pollutant-
22 monitoring requirements under Rule 4460, and arbitrarily denies the public, including Petitioners, a
23 public comment opportunity despite providing a public review process under Rule 4460 for refinery
24 fenceline air monitoring plans.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Petitioners pray for judgment as set forth below:

3 I. As to the FIRST CAUSE OF ACTION:

- 4 1. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant
5 to Code of Civil Procedure section 1085 commanding Valley Air to comply with
6 Section 42705.6 by (a) removing compliance exemptions under Rules 4460 and 3200
7 for refineries not currently “refining crude oil”; and (b) removing air pollutant
8 monitoring exemptions under Rules 4460 and 3200 for refineries with a capacity of
9 less than 40,000 barrels per day of crude oil to require that all refineries consider
10 monitoring the same range of air pollutants identified by the air district;
- 11 2. For a declaration under Code of Civil Procedure section 1060 that Valley Air is
12 violating California’s Health and Safety Code by creating unlawful exemptions for
13 refineries; and
- 14 3. For injunctive relief consistent with section I, subdivision 1, above ordering
15 compliance with California’s Health and Safety Code.

16 II. As to the SECOND CAUSE OF ACTION:

- 17 1. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant
18 to Code of Civil Procedure section 1085 commanding Valley Air to comply with
19 Section 42705.6 by issuing guidance materials by a specific date and allowing input
20 from affected parties through a public process;
- 21 2. For a declaration under Code of Civil Procedure section 1060 that Valley Air is
22 violating California’s Health and Safety Code by failing to prepare guidance
23 materials and incorporate input from affected parties through a public process; and
- 24 3. For injunctive relief consistent with section II, subdivision 1, above ordering
25 compliance with California’s Health and Safety Code.

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1 III. As to the THIRD CAUSE OF ACTION:

- 2 1. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant
3 to Code of Civil Procedure section 1085 commanding Valley Air to comply with
4 Section 42705.6 by setting deadlines for developing, installing, and operating
5 refinery-related community air monitoring systems;
- 6 2. For a declaration under Code of Civil Procedure section 1060 that Valley Air is
7 violating California's Health and Safety Code by continuing to fail to comply with
8 the statutory mandate; and
- 9 3. For injunctive relief consistent with section III, subdivision 1, above ordering
10 compliance with California's Health and Safety Code.

11 IV. As to the FOURTH CAUSE OF ACTION:

- 12 1. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant
13 to Code of Civil Procedure section 1085 commanding Valley Air to comply with
14 Section 42705.6 by setting a timeline for review and approval of refinery fenceline air
15 monitoring plans after submission by refineries;
- 16 2. For a declaration under Code of Civil Procedure section 1060 that Valley Air is
17 violating California's Health and Safety Code by continuing to fail to comply with
18 the statutory mandate; and
- 19 3. For injunctive relief consistent with section IV, subdivision 1, above ordering
20 compliance with California's Health and Safety Code.

21 V. As to the FIFTH CAUSE OF ACTION:

- 22 1. For a writ of mandate or peremptory writ under the seal of this Court pursuant to
23 Code of Civil Procedure section 1085 commanding Valley Air to comply with
24 Section 42705.6 by (a) revising the rules to require that all refinery fenceline and
25 refinery-related community air monitoring systems consider for monitoring the same
26 range of pollutants identified by the air district; (b) considering relevant factors in the
27 selection, number, and placement of refinery-related community air monitoring sites;
28 and (c) establishing a formal public review and comment process for refinery-related

1 community air monitoring plans.


- 2 2. For a declaration under Code of Civil Procedure section 1060 that the approval of the
3 these rules was arbitrary and capricious; and
4 3. For injunctive relief consistent with section V, subdivision 1, above ordering
5 compliance with California's Health and Safety Code.

6 VI. As to ALL CAUSES OF ACTION:

- 7 1. For costs of the suit;
8 2. For attorneys' fees under Code of Civil Procedure section 1021.5 and other applicable
9 authority; and
10 3. For such other legal and equitable relief as this Court deems appropriate and just.

11 Respectfully submitted,

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13 Dated: March 18, 2020



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*Attorneys for Petitioners/Plaintiffs Comite Progreso de
Lamont, Committee for a Better Shafter, Committee for a
Better Arvin, Lost Hills in Action, Association of Irrigated
Residents, and Clean Water Action*

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VERIFICATION

I, Jose Mireles, hereby declare:

I am the President and authorized representative for Comite Progreso de Lamont, a community-based organization based in Kern County, California. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and am familiar with its contents. The facts alleged in it are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 10 day of March 2020 at Delano, California.



Jose Mireles

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VERIFICATION

I, Anabel Marquez, hereby declare:

I am the President and authorized representative for the Committee for a Better Shafter, a non-profit organization based in Kern County, California. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and am familiar with its contents. The facts alleged in it are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 10 day of March 2020 at Delano, California.



Anabel Marquez

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VERIFICATION

I, Estela Garcia, hereby declare:

I am the President and authorized representative for the Committee for a Better Arvin, a non-profit organization based in Kern County, California. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and am familiar with its contents. The facts alleged in it are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 10 day of March 2020 at Delano, California.



Estela Garcia

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VERIFICATION

I, Saul Ruiz, hereby declare:

I am the President and authorized representative for the Lost Hills in Action, a community-based organization in Kern County, California. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and am familiar with its contents. The facts alleged in it are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 17 day of March 2020 at Lost Hills, California.

Saul Ruiz Martinez

Saul Ruiz

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VERIFICATION

I, Tom Frantz, hereby declare:

I am the authorized representative for the Association of Irrigated Residents, a non-profit corporation based in Kern County, California. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and am familiar with its contents. The facts alleged in it are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 16 day of March 2020 at Shafter, California.



Tom Frantz

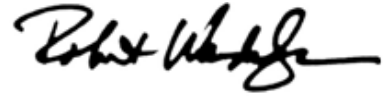
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VERIFICATION

I, Robert Wendelgass, hereby declare:

I am the authorized representative for Clean Water Action, a non-profit corporation based in Washington, D.C. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and am familiar with its contents. The facts alleged in it are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this verification is executed on this 16th day of March 2020 at Philadelphia, Pennsylvania.



Robert Wendelgass, President & CEO