

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Mary Strobel

1 ANGELA JOHNSON MESZAROS, CA Bar No. 174130  
2 ameszaros@earthjustice.org  
3 OSCAR ESPINO-PADRON, CA BAR NO. 290603  
4 oespino-padron@earthjustice.org  
5 BYRON CHAN, CA Bar No. 306043  
6 bchan@earthjustice.org  
7 EARTHJUSTICE  
8 707 Wilshire Boulevard, Suite 4300  
9 Los Angeles, CA 90017  
10 Tel: (415) 217-2000  
11 Fax: (213) 403-4822

12 *Attorneys for Petitioner/Plaintiff East Yard Communities*  
13 *for Environmental Justice*

14 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **IN AND FOR THE COUNTY OF LOS ANGELES**  
16 **CENTRAL DISTRICT**

17 EAST YARD COMMUNITIES FOR  
18 ENVIRONMENTAL JUSTICE,

19 Petitioner/Plaintiff,

20 v.

21 SOUTH COAST AIR QUALITY  
22 MANAGEMENT DISTRICT,

23 Respondent/Defendant.

Case No.: **22STCP04398**

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

[Code Civ. Proc., §§ 1085, 1060, 526]

Petitioner East Yard Communities for Environmental Justice brings this action against Respondent South Coast Air Quality Management District to compel compliance with Health & Safety Code section 42705.6 that required the installation of petroleum refinery fence line and community air monitoring systems by January 1, 2020, and alleges as follows:

## INTRODUCTION

1. California has the largest concentration of petroleum refineries in the western United States. Refineries in Southern California are concentrated in the communities of Wilmington, Carson, Torrance, and Long Beach; these areas have some of the worst air quality in the country, including harmful levels of ozone that leads to asthma, breathing difficulties, and increased deaths from respiratory causes.<sup>1</sup> In fact, every year, more than 1,300 people in Los Angeles die from air pollution and more than 3,200 residents are hospitalized due to cardiac or acute respiratory related illnesses from air pollution.<sup>2</sup> Refineries are major contributors to the region’s air pollution.

2. All petroleum refineries, regardless of their size, produce pollution that causes serious health effects. The World Oil refinery in South Gate, for example, refines 8,500 barrels per day (bpd) and releases about 100 tons of pollutants annually.<sup>3</sup> The California Office of Environmental Health Hazard Assessment found that refineries emit at least 188 toxic air contaminants and smog-causing volatile organic compounds, including benzene,

---

<sup>1</sup> U.S. Environmental Protection Agency, *Health Effects of Ozone Pollution* (June 14, 2022), <https://www.epa.gov/ground-level-ozone-pollution/health-effects-ozone-pollution> [<https://perma.cc/JA7N-A5ZU>].

<sup>2</sup> Munguia, *Southern California Leads the Nation in Air Pollution Deaths*, UCLA Transportation Blog (Sept. 13, 2016), <https://www.transportation.ucla.edu/blog/southern-california-leads-nation-air-pollution-deaths> [<https://perma.cc/383R-U24A>].

<sup>3</sup> Cal. Energy Com., *California’s Oil Refineries*, <https://www.energy.ca.gov/data-reports/energy-almanac/californias-petroleum-market/californias-oil-refineries> [<https://perma.cc/VU5E-U6GK>]; South Coast Air Quality Management Dist., F.I.N.D., *Lunday-Thagard Company dba World Oil Refining*, <https://xappprod.aqmd.gov/find//facility/AQMDsearch?facilityID=800080> (Select “Emissions” tab; then select AER Year “2021”).

1 toluene, hydrogen sulfide, formaldehyde, ammonia, and naphthalene.<sup>4</sup> Refineries of all sizes  
2 spew these toxic pollutants, which cause cancer, tumors, developmental defects, memory  
3 impairment, and other harmful health effects.<sup>5</sup>

4 3. Refineries of any size are inherently dangerous operations prone to flaring and  
5 explosion incidents, and the impacts of these dangers are magnified when refineries are near  
6 residential areas and schools with young children. The World Oil refinery, for example, is in  
7 a community that has one of the highest pollution burdens in the state. In particular, the  
8 community surrounding the refinery in South Gate experiences more toxic releases than 95  
9 percent of the state, according to the California Environmental Protection Agency  
10 (CalEPA).<sup>6</sup> The nearest homes to the refinery are only a quarter mile away. The nearest high  
11 school and elementary school are less than one mile away. Families in these homes and  
12 students in these schools breathe in the tons of air pollutants the refinery emits on a regular  
13 basis. Without air monitoring, the surrounding residents are kept in the dark about the  
14 dangerous pollutants traveling into their neighborhoods.

15 4. Because refineries pose so many health and safety risks, the California Legislature  
16 felt the pressing need to alert residents of dangerous refinery malfunctions and the harmful  
17 chemicals refineries released into their communities day after day. In response, the  
18 Legislature and Governor Jerry Brown enacted Assembly Bill 1647 on October 8, 2017,  
19 which added section 42705.6 to the California Health and Safety Code (or the Monitoring  
20 Mandate). The Monitoring Mandate requires all petroleum refineries in California, in

---

21 <sup>4</sup> Cal. Off. of Environmental Health Hazard Assessment, *Analysis of Refinery Chemical*  
22 *Emissions and Health Effects* (Mar. 2019) pp. ii, vi, [https://oehha.ca.gov/media/downloads](https://oehha.ca.gov/media/downloads/faqs/refinerychemicalsreport032019.pdf)  
23 [/faqs/refinerychemicalsreport032019.pdf](https://oehha.ca.gov/media/downloads/faqs/refinerychemicalsreport032019.pdf) [<https://perma.cc/8CBX-RAAP>].

24 <sup>5</sup> See generally Cal. Off. of Environmental Health Hazard Assessment, *Analysis of Refinery*  
25 *Chemical Emissions and Health Effects*, *supra*, pp. 21–26, A-1–A-23.

26 <sup>6</sup> Cal. Off. of Environmental Health Hazard Assessment, CalEnviroScreen 4.0, Toxic Releases  
27 from Facilities for Census Tract 6037536102, [https://experience.arcgis.com/experience/](https://experience.arcgis.com/experience/ed5953d89038431dbf4f22ab9abfe40d/)  
28 [ed5953d89038431dbf4f22ab9abfe40d/](https://experience.arcgis.com/experience/ed5953d89038431dbf4f22ab9abfe40d/) (Under “Pollution Burden”, select “Toxic Releases  
from Facilities”; then select search icon; then enter “6037536102” in search bar; then select  
“Census Tract Search 6037536102” from dropdown; then select Census Tract on Map to view  
results).

1 accordance with guidance from air districts, to design, install, and operate real-time  
2 monitoring of air pollutants traveling past the refineries' fenceline. In addition, the  
3 Monitoring Mandate requires air districts to design, install, and operate community air  
4 monitors near sensitive receptors, such as schools, hospitals, and day care centers, to detect in  
5 real time any pollutants from refineries reaching these areas. The statutory deadline to  
6 design, install, and operate refinery fenceline and community air monitoring systems was  
7 January 1, 2020.

8 5. South Coast Air Quality Management District (Air District) is the air management  
9 district charged with controlling and monitoring air pollution in the South Coast Air Basin  
10 and is tasked with implementing the Monitoring Mandate. The Air District's mission is to  
11 clean the air and protect the health of all residents in the South Coast Air Basin through  
12 practical and innovative strategies. The South Coast Air Basin has critical air pollution  
13 problems and is classified as one of the worst air quality regions in the United States.<sup>7</sup>

14 6. Despite the Air District's mission to clean the air and protect the health of all  
15 residents in the South Coast Air Basin, and the already serious air pollution problems in the  
16 region, the Air District failed to develop a rule that complied with the Monitoring Mandate's  
17 requirement to design, install, and operate refinery fenceline and community air monitoring  
18 systems at all refineries. The Air District's Rule 1180, which was proposed prior to the  
19 passage of the Monitoring Mandate, partially addresses the monitoring requirements but  
20 exempts refineries with a capacity under 40,000 bpd from fenceline and community air  
21 monitoring requirements. Yet, these exempt refineries still emit tons of pollutants every year  
22 from routine operations and threaten the safety and wellbeing of surrounding communities.

23 7. The Air District has not fulfilled its duty to implement the Monitoring Mandate  
24 by January 1, 2020. The Air District prioritized industry interests over public health and  
25

---

26 <sup>7</sup> American Lung Assn., State of the Air 2022, *Most Polluted Cities*, [https://www.lung.org/](https://www.lung.org/research/sota/city-rankings/most-polluted-cities)  
27 [research/sota/city-rankings/most-polluted-cities](https://www.lung.org/research/sota/city-rankings/most-polluted-cities) [<https://perma.cc/FF8P-UEWF>] (ranking the  
28 Los Angeles-Long Beach, California region as having the worst ozone pollution in the nation  
and in the top five for year-round particle pollution).

1 safety and its statutory obligations under the Monitoring Mandate when the agency created  
2 an unlawful exemption; failed to develop the necessary fenceline and community air  
3 monitoring systems and guidelines; and neglected to collect the necessary fees to design,  
4 install, and operate the air monitoring systems in all impacted communities. The Air  
5 District's actions contradict the intended purpose of the Monitoring Mandate by failing to  
6 implement a robust air monitoring system at all petroleum refineries and surrounding  
7 communities.

8 8. The Air District's actions jeopardize the health and safety of families, children,  
9 and community members that live, work, and play near the refineries in the South Coast Air  
10 Basin. The Air District has denied communities near refineries transparency about the  
11 dangerous, toxic pollutants emitted by refineries into the air they breathe. Refineries with a  
12 capacity of under 40,000 bpd emit tons of chemical pollutants each year, and without air  
13 monitoring systems, communities have no way to assess in real time the danger that these  
14 refineries pose and to hold refineries accountable for their pollution.

15 9. Petitioner brings this action to secure the Air District's compliance with its  
16 statutory obligations, and to protect the health and wellbeing of all in the South Coast Air  
17 Basin.

## 18 **PARTIES**

19  
20 10. Petitioner East Yard Communities for Environmental Justice (East Yard) is a  
21 membership-based California non-profit environmental health and justice organization based  
22 in Commerce, California. East Yard's mission is to create a safe and healthy environment for  
23 communities disproportionately suffering the negative impacts of industrial pollution in the  
24 South Coast Air Basin, including reducing pollution from petroleum refineries in the region.  
25 East Yard and its members are concerned about the health and safety impacts to residents  
26 because of the Air District's non-compliance with the Monitoring Mandate.

1           11. Respondent South Coast Air Quality Management District (Air District) is an air  
2 quality regulatory agency with “primary responsibility for control of air pollution” from  
3 stationary sources in the South Coast Air Basin, which includes Los Angeles, Orange,  
4 Riverside, and San Bernardino counties. (Health & Saf. Code, §§ 40000, 40410.) The South  
5 Coast Air Basin “is acknowledged to have critical air pollution problems caused by the  
6 operation of millions of motor vehicles in the basin, stationary sources of pollution, frequent  
7 atmospheric inversions that trap aerial contaminants, and the large amount of sunshine that  
8 transforms vehicular and nonvehicular emissions into a variety of deleterious chemicals.”  
9 (Health & Saf. Code, § 40402, subd. (b).)

10           12. The Air District is overseen by a 13-member governing board, along with  
11 professional staff that are directed by an executive officer. (Health & Saf. Code, §§ 40420,  
12 40480.) The Air District is required to “adopt rules and regulations and do such acts as may  
13 be necessary or proper to execute the powers and duties granted to, and imposed upon, the  
14 district” by California law. (Health & Saf. Code, § 40702.)

15  
16                                   **JURISDICTION AND VENUE**

17           13. This Court has jurisdiction over the matters alleged in this Petition under Code of  
18 Civil Procedure sections 526, 1060 and 1085.

19           14. Venue is proper in the Superior Court of California, County of Los Angeles under  
20 Code of Civil Procedure section 395 because the Air District’s headquarters is in the County  
21 of Los Angeles.

22           15. Petitioner has performed all conditions precedent to filing this instant action and  
23 has exhausted all available remedies to the extent required by law.

24           16. Petitioner does not have a plain, speedy, or adequate remedy at law unless this  
25 Court grants the requested writ of mandate to require that the Air District meet its statutory  
26 obligations and adopt rules that comply with California’s Health and Safety Code.  
27  
28

1 **STATUTORY BACKGROUND**

2 17. Refineries of all sizes are dangerous operations that pose safety and public health  
3 threats to their workers and nearby residents. Refineries experience fires, explosions, and  
4 flaring events from malfunctions and other process upsets. Several incidents at California  
5 refineries in the South Coast Air Basin in recent years illustrate the hazards these operations  
6 pose to onsite workers and surrounding communities. In 2014, the Valero Wilmington  
7 Refinery exceeded its permitted level of sulfur dioxide emissions by more than two tons  
8 largely due to flaring events.<sup>8</sup> Short-term effects of sulfur dioxide include shortness of breath  
9 and chest tightness, while longer term impacts include respiratory illness, lung damage, and  
10 aggravation of cardiovascular disease.<sup>9</sup> On February 18, 2015, an explosion occurred at the  
11 ExxonMobil refinery in Torrance, injuring several workers and creating a 1.7 magnitude  
12 earthquake felt miles from the refinery.<sup>10</sup> The explosion propelled an 80,000-pound piece of  
13 debris that narrowly missed a tank containing hydrogen fluoride, an extremely volatile  
14 chemical with the potential to kill or injure thousands of residents near the refinery.<sup>11</sup>

15 18. Smaller refineries also pose health and safety risks to surrounding communities.  
16 For instance, the World Oil refinery in South Gate releases about 100 tons of pollutants  
17 annually.<sup>12</sup> These pollutants include toxic chemicals, such as hydrogen sulfide, as well as  
18  
19

---

20 <sup>8</sup> Green, *AQMD Proposed Plan After Valero Wilmington Refinery Exceeds Pollution Limits*,  
21 Daily Breeze (Mar. 14, 2018), [https://www.dailybreeze.com/2018/03/14/aqmd-proposes-plan-  
after-valero-wilmington-refinery-exceeds-pollution-limits/](https://www.dailybreeze.com/2018/03/14/aqmd-proposes-plan-after-valero-wilmington-refinery-exceeds-pollution-limits/) [<https://perma.cc/4M3E-8UH4>].

22 <sup>9</sup> Cal. Off. of Environmental Health Hazard Assessment, *Analysis of Refinery Chemical*  
23 *Emissions and Health Effects*, *supra*, p. 25; U.S. Environmental Protection Agency, *Frequent,*  
24 *Routine Flaring May Cause Excessive, Uncontrolled Sulfur Dioxide Releases* (Oct. 2000) p. 2,  
<https://www.epa.gov/sites/default/files/documents/flaring.pdf> [<https://perma.cc/2C43-FKTQ>].

25 <sup>10</sup> Zou, *The ExxonMobil Near-Disaster You Probably Haven't Heard Of*, The Center for Public  
26 Integrity (Feb. 10, 2017), [https://publicintegrity.org/environment/the-exxonmobil-near-  
disaster-you-probably-havent-heard-of/](https://publicintegrity.org/environment/the-exxonmobil-near-disaster-you-probably-havent-heard-of/) [<https://perma.cc/8W2C-4YTU>].

27 <sup>11</sup> Zou, *The ExxonMobil Near-Disaster You Probably Haven't Heard Of*, *supra*.

28 <sup>12</sup> South Coast Air Quality Management Dist., F.I.N.D., *Lunday-Thagard Company dba World*  
*Oil Refining*, *supra*.

1 smog precursors like nitrogen oxide and volatile organic compounds.<sup>13</sup> CalEPA surveyed  
2 census tracts to document the pollution burden experienced by communities in California,  
3 including from air pollutants such as ozone and toxic chemicals associated with industrial  
4 processes, like refineries. CalEPA found that the community surrounding the World Oil  
5 refinery is among the most polluted communities in the state, including having more toxic  
6 releases than 95 percent of other communities in the state.<sup>14</sup> There are homes a quarter mile  
7 from the refinery, as well as a high school and elementary school less than one mile away.  
8 Residents suffer the health impacts of breathing in the refinery’s emissions, including low  
9 birth weight and cardiovascular disease.<sup>15</sup> In March 2022, the refinery agreed to pay a  
10 \$112,673 penalty for failing to implement oil spill prevention measures, including failing to  
11 correct “visible discharges” of oil in violation of the Clean Water Act.<sup>16</sup>

12 19. Refineries release harmful emissions daily as part of their regular operations. The  
13 California Office of Environmental Health Hazard Assessment analyzed refinery annual  
14 emissions inventories and found that refineries release at least 188 toxic air contaminants and  
15 smog-causing volatile organic compounds, including benzene, toluene, hydrogen sulfide,  
16 formaldehyde, ammonia, and naphthalene. These toxic emissions have short- and long-term  
17

---

18 <sup>13</sup> U.S. Environmental Protection Agency, *Toxic Release Inventory Facility Report: Lunday-*  
19 *Thagard Company dba World Oil Refining*, [https://enviro.epa.gov/facts/tri/ef-facilities/#!/](https://enviro.epa.gov/facts/tri/ef-facilities/#!/Release/90280LNDYT9301S)  
20 *Release/90280LNDYT9301S*.

21 <sup>14</sup> Cal. Off. of Environmental Health Hazard Assessment, CalEnviroScreen 4.0, Toxic Releases  
22 from Facilities for Census Tract 6037536102, *supra*.

23 <sup>15</sup> Census Tract 6037536102 is in the 93rd percentile for low birth weight, 64th percentile  
24 cardiovascular disease. Cal. Off. Of Environmental Health Hazard Assessment,  
25 CalEnviroScreen 4.0, Low Birth Weight and Cardiovascular Disease for Census Tract  
26 6037536102, <https://experience.arcgis.com/experience/ed5953d89038431dbf4f22ab9abfe40d/>  
27 (Under “Population Characteristics”, select “Cardiovascular Disease” or “Low Birth Weight”;  
28 then select search icon; then enter “6037536102” in search bar; then select “Census Tract  
Search 6037536102” from dropdown; then select Census Tract on Map to view results).

<sup>16</sup> U.S. Environmental Protection Agency, News Release, *U.S. EPA Penalizes Southern  
California Refinery for Violating Oil Spill Prevention Requirements, Endangering Los Angeles  
Waterways* (Mar. 30, 2022), [https://www.epa.gov/newsreleases/us-epa-penalizes-southern-](https://www.epa.gov/newsreleases/us-epa-penalizes-southern-california-refinery-violating-oil-spill-prevention-0)  
[california-refinery-violating-oil-spill-prevention-0 \[https://perma.cc/M824-EY27\]](https://perma.cc/M824-EY27).



1 health consequences for nearby residents including cancer, developmental defects, memory  
2 impairment, cataracts, and tremors.<sup>17</sup>

3 20. Because of refinery safety hazards as well as the more than 188 toxic air  
4 pollutants that refineries release as part of their regular operations, communities near  
5 refineries throughout California have grown increasingly concerned about the health effects  
6 of living near refineries. To identify pollution sources at *all* refineries, inform appropriate  
7 measures to reduce emissions, and alert residents when pollution levels become hazardous,  
8 Assemblymember Al Muratsuchi introduced Assembly Bill (AB) 1647 on February 17,  
9 2017. AB 1647 amended the Health and Safety Code to add Section 42705.6. As noted by  
10 Assemblymember Muratsuchi, the intent of the Monitoring Mandate was to “improve public  
11 safety at all California refineries.”<sup>18</sup>

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

18 22. The Monitoring Mandate also required that by January 1, 2020, a community air  
19 monitoring system be installed near “each” refinery. (Health & Saf. Code, § 42705.6, subd.  
20 (b).)

---

24 <sup>17</sup> See generally Cal. Off. of Environmental Health Hazard Assessment, *Analysis of Refinery*  
25 *Chemical Emissions and Health Effects*, *supra*, pp. 21–26, A-1–A-23.

26 <sup>18</sup> Muratsuchi, Press Release, *Assemblymember Al Muratsuchi’s Assembly Bill (AB) 1647, Which*  
27 *Will Require Refineries to Maintain Air Quality Monitors, Passes Assembly Floor with*  
28 *Bipartisan Support* (May 30, 2017), <https://a66.asmdc.org/press-releases/20170531-assemblymember-al-muratsuchis-assembly-bill-ab-1647-which-will-require> [<https://perma.cc/J4XL-EZYL>].



1           29.     There are nine petroleum refineries in the Air District’s jurisdiction, all of which  
2 are in southwest Los Angeles County.<sup>20</sup> These refineries process over 1 million barrels of  
3 petroleum per day.<sup>21</sup> Five refineries are concentrated in Wilmington and Carson, some of the  
4 most overburdened communities in the country. These communities experience higher  
5 pollution burdens than 90 percent of the state due to unhealthy air, toxic releases, and  
6 hazardous waste.

7           30.     Petroleum refineries are the largest stationary source of smog precursors in the  
8 region. These refineries contribute to the South Coast Air Basin’s extreme non-attainment  
9 status for ozone pollution. In the communities of Wilmington, West Long Beach, and  
10 Carson, petroleum refineries reported emissions of more than 1,500 tons of nitrogen oxides  
11 (NOx) in 2017, or two-thirds of total NOx emissions from all point sources in the area.<sup>22</sup> In  
12 addition, an Air District study confirms that reported emissions significantly undercount  
13 actual emissions released from refineries, particularly emissions of smog precursors such as  
14 volatile organic compounds, several of which are considered hazardous.<sup>23</sup>

15           31.     The Air District completed its rulemaking on fenceline air monitoring after  
16 Governor Brown signed AB 1647 but before the law went into effect.

17           32.     In April 2017, the Air District began the process of developing a rule to  
18 implement fenceline air monitoring at refineries and to install community air monitoring in  
19

---

20 <sup>20</sup> Cal. Air Resources Board, *California Refineries* (July 14, 2020), [https://ww2.arb.ca.gov/  
21 resources/documents/california-refineries](https://ww2.arb.ca.gov/resources/documents/california-refineries) [<https://perma.cc/D4QH-JPYJ>].

22 <sup>21</sup> Cal. Energy Com., *California’s Oil Refineries*, *supra*.

23 <sup>22</sup> South Coast Air Quality Management Dist., *Emissions Inventory in the Base and Future*  
24 *Milestone Years – Point and On-Road Mobile Sources*, Presentation at AB 617 Community Air  
25 Initiatives Technical Advisory Group Meeting (May 29, 2019) p. 7, [http://www.aqmd.gov  
26 /docs/default-source/ab-617-ab-134/technical-advisory-group/presentation-may29-2019.pdf](http://www.aqmd.gov/docs/default-source/ab-617-ab-134/technical-advisory-group/presentation-may29-2019.pdf)  
27 [<https://perma.cc/64LX-LERQ>].

28 <sup>23</sup> Mellqvist et al., *Emission Measurements of VOCs, NO2 and SO2 from the Refineries in the*  
*South Coast Air Basin Using Solar Occultation Flux and Other Optical Remote Sensing*  
*Methods* (Apr. 2017) p. 4, [http://www.aqmd.gov/docs/default-source/fenceline\\_  
29 monitoring/  
30 project\\_1/fluxsense\\_scaqmd2015\\_project1\\_finalreport\(040717\).pdf](http://www.aqmd.gov/docs/default-source/fenceline_monitoring/project_1/fluxsense_scaqmd2015_project1_finalreport(040717).pdf) [[https://perma.cc/KB3W-  
31 YLGW](https://perma.cc/KB3W-YLGW)].

1 impacted communities. The agency held a public workshop in September 2017, published  
2 draft Rule 1180 in November 2017, and adopted Rule 1180 in December 2017.

3 33. Rule 1180 exempts refineries with a capacity under 40,000 bpd from the fenceline  
4 and community air monitoring requirements. Yet, these refineries still emit toxic pollutants  
5 and threaten public safety. The Paramount refinery, for example, which agreed to limit its  
6 throughput to 39,500 barrels per day to qualify for the monitoring exemption, emitted in  
7 2020 alone more than 2,000 pounds of ammonia, a toxic chemical that can cause decreased  
8 lung function, asthma, and eye and skin irritation.<sup>24</sup> The refinery operates near Paramount  
9 High School, Wirtz Elementary School, and the Cinderella Mobile Home Park. More toxic  
10 chemicals are released into this community than 96 percent of California communities.<sup>25</sup>

11 34. At the same time the Air District was developing Rule 1180, the state was  
12 considering implementing statewide requirements for air monitoring at refineries. The state  
13 passed AB 1647 in October 2017, which amended the Health & Safety Code to add Section  
14 42705.6.

15 35. The Monitoring Mandate went into effect on January 1, 2018, and required air  
16 districts to comply with its requirements by January 1, 2020.

17 36. The Monitoring Mandate does not allow air districts to exempt refineries of a  
18 certain size from fenceline and community air monitoring requirements.

---

19 <sup>24</sup> South Coast Air Quality Management Dist., *Summary of Public Comments on Rule 1180*  
20 *Fenceline Air Monitoring Plans* (2019) p. 1, [http://www.aqmd.gov/docs/default-](http://www.aqmd.gov/docs/default-source/fenceline_monitoring/r1180_public_comment_summary_final_04192019docx.pdf?sfvrsn=6)  
21 [source/fenceline\\_monitoring/r1180\\_public\\_comment\\_summary\\_final\\_04192019docx.pdf?sfvr](http://www.aqmd.gov/docs/default-source/fenceline_monitoring/r1180_public_comment_summary_final_04192019docx.pdf?sfvrsn=6)  
22 [sn=6 \[https://perma.cc/U5EU-PZTW\]](https://perma.cc/U5EU-PZTW); U.S. Environmental Protection Agency, *Toxic Release*  
23 *Inventory Facility Report: AltAir Paramount LLC*, [https://enviro.epa.gov/facts/tri/ef-](https://enviro.epa.gov/facts/tri/ef-facilities/Release/90723PRMNT14700)  
24 [facilities/Release/90723PRMNT14700](https://enviro.epa.gov/facts/tri/ef-facilities/Release/90723PRMNT14700) (Navigate to “Trend in Releases of TRI Chemicals”  
25 chart; then, select bar for “2020” to view release totals); Cal. Off. of Environmental Health  
26 Hazard Assessment, *Analysis of Refinery Chemical Emissions and Health Effects*, *supra*, p. 21.

27 <sup>25</sup> Cal. Off. of Environmental Health Hazard Assessment, CalEnviroScreen 4.0, Toxic Releases  
28 from Facilities for Census Tract 6037553502, [https://experience.arcgis.com/experience/](https://experience.arcgis.com/experience/ed5953d89038431dbf4f22ab9abfe40d/)  
[ed5953d89038431dbf4f22ab9abfe40d/](https://experience.arcgis.com/experience/ed5953d89038431dbf4f22ab9abfe40d/) (Under “Pollution Burden”, select “Toxic Releases  
from Facilities”; then select search icon; then enter “6037553502” in search bar; then select  
“Census Tract Search 6037553502” from dropdown; then select Census Tract on Map to view  
results).

1           37.     Petitioner has consistently maintained and communicated to the Air District that  
2 the Monitoring Mandate does not allow the air district to exempt refineries of a certain size.  
3 Petitioner and several other environmental organizations wrote to the Air District on  
4 September 30, 2019, to voice concerns with the exemption for refineries with a capacity  
5 below 40,000 bpd and express their belief that Rule 1180’s exemption did not comply with  
6 the Monitoring Mandate.

7           38.     In December 2019, the Air District included Rule 1180 in its 2020 Rule Forecast,  
8 suggesting that it was considering revising the rule to modify or remove the unlawful  
9 exemption, but it did not initiate any working group meetings to engage with stakeholders or  
10 include a proposed amended rule on a Governing Board meeting agenda.

11           39.     The Air District continued to include Rule 1180 in its Rule Forecasts all through  
12 2020, but never initiated working group meetings nor did the agency place an amended  
13 proposed rule on a Governing Board meeting agenda for consideration.

14           40.     Other air districts have also adopted fenceline and community air monitoring  
15 regulations, including the San Joaquin Valley Unified Air Pollution Control District (Valley  
16 Air). Like the Air District, Valley Air included an exemption for refineries not actively  
17 refining crude oil and an exemption allowing refineries with a capacity of 40,000 bpd to  
18 avoid monitoring the full list of pollutants identified by the air district.

19           41.     On September 17, 2021, the Fresno County Superior Court found that Valley  
20 Air’s regulations did not comply with the Monitoring Mandate and issued a writ of mandate  
21 ordering Valley Air to remove these exemptions. (*Comite Progreso de Lamont v. San*  
22 *Joaquin Valley Unified Air Pollution Control Dist.* (Super. Ct. Fresno County, 2021, No.  
23 20CECG01008).) The Court noted that the crude oil exemption “relieves an entire class of  
24 petroleum refineries from complying with all or parts of [the Monitoring Mandate]” and  
25 “exceed[s] the authority granted . . . by the Legislature and must be stricken as void.” (*Id.*)  
26 The Monitoring Mandate does not “differentiate between petroleum refineries based on their  
27 refining capacity or any other characteristic.” (*Id.*) Similarly, the Court found no  
28

1 “justification for using the 40,000-bpd threshold to differentiate between refineries for air  
2 monitoring purposes,” and as a result, the exemption was “arbitrary, capricious, and lacks a  
3 rational basis.” (*Id.*)

4 42. On December 3, 2021, the Air District included Rule 1180.1 in its 2022 Rule  
5 Forecast, which would have established fenceline and community air monitoring guidelines  
6 for refineries not included in Rule 1180. Yet, the amendment has languished in the Rule  
7 Forecasts and the Air District has never even placed the amendment on an agenda.

8 43. In light of the Fresno County Superior Court decision, Petitioner and other  
9 environmental organizations wrote to the Air District on December 6, 2021, expressing their  
10 belief that Rule 1180 does not comply with the Monitoring Mandate. Yet, the Air District has  
11 continued to neglect its obligations under the Monitoring Mandate even in the face of a  
12 judicial decision that disallows compliance exemptions.

13 44. Despite Petitioner’s concerns and the Air District’s inclusion of Rule 1180 and  
14 Rule 1180.1 in its Rule Forecasts suggesting it would consider removing the exemption, the  
15 Air District has not acted. The exemption in Rule 1180 is unlawful and contrary to the  
16 requirements of the Monitoring Mandate.

#### 17 18 **FIRST CAUSE OF ACTION**

19 (Violation of the Health & Safety Code—Failure to Install Community Air Monitoring Systems)

20 45. Petitioner incorporates by reference the allegations set forth in paragraphs 1  
21 through 44 above.

22 46. The Monitoring Mandate requires that on or before January 1, 2020, a community  
23 air monitoring system “shall be installed near *each* refinery.” (Health & Saf. Code, §  
24 42705.6, subd. (b) (emphasis added).) The Air District is required to “design, install, operate,  
25 and maintain the refinery-related community air monitoring system” near each refinery.  
26 (Health & Saf. Code, § 42705.6, subd. (b)(1).)  
27  
28

1 47. The Air District failed to install a community air monitoring system by the  
2 January 1, 2020, compliance deadline for at least three refineries with a capacity below  
3 40,000 bpd: Paramount Petroleum, World Oil in South Gate, and Valero Wilmington Asphalt  
4 Refinery. This failure is a violation of the Air District’s duties under the Monitoring Mandate  
5 to install community air monitoring near each refinery in its jurisdiction.

6 48. The Air District’s failure to install community air monitoring systems near each  
7 refinery in the South Coast Air Basin undermines the Monitoring Mandate’s purpose to  
8 estimate “associated pollutant exposures and health risks and in determining trends in air  
9 pollutant levels over time” at refineries. (Health & Saf. Code, § 42705.6, subd. (a)(1).)

10  
11 **SECOND CAUSE OF ACTION**

12 (Violation of the Health & Safety Code—Failure to Develop Guidance)

13 49. Petitioner incorporates by reference the allegations set forth in paragraphs 1  
14 through 48 above.

15 50. The Monitoring Mandate applies to all petroleum refineries in California. (Health  
16 & Saf. Code, § 42705.6, subds. (c), (f)(1).)

17 51. The Monitoring Mandate requires the Air District to prepare “guidance”  
18 documents for the development, installation, operation, and maintenance of refinery  
19 fenceline and community air monitoring systems by January 1, 2020. (Health & Saf. Code, §  
20 42705.6, subds. (c), (b)(1).)

21 52. The Air District has not provided refinery fenceline and community air  
22 monitoring guidance for at least three refineries in the area: Paramount Petroleum, World Oil  
23 in South Gate, and Valero Wilmington Asphalt Refinery.

24 53. The Air District unlawfully failed to provide refinery fenceline and community air  
25 monitoring guidance for refineries with a capacity below 40,000 bpd by the January 1, 2020,  
26 compliance deadline. On its face, the Monitoring Mandate does not give the Air District  
27  
28

1 discretion to provide refinery fenceline and community air monitoring guidance only to  
2 refineries with a capacity above a certain size.

3  
4 **THIRD CAUSE OF ACTION**

5 (Violation of the Health & Safety Code—Failure to Pass Rules in Compliance with the  
6 Monitoring Mandate)

7 54. Petitioner incorporates by reference the allegations set forth in paragraphs 1  
8 through 53 above.

9 55. Section 40702 requires air districts to adopt rules and regulations necessary to  
10 execute the duties imposed upon them by statute. (Health & Saf. Code, § 40702.)

11 56. The Monitoring Mandate imposed a duty on the Air District to adopt refinery  
12 fenceline and community air monitoring rules that apply to *all* refineries.

13 57. As of January 1, 2020, the Air District has failed to adopt rules that apply to  
14 refineries with a capacity below 40,000 bpd, in violation of its duties under Sections 40702  
15 and 42705.6.

16 58. As of January 1, 2020, the Air District has failed to revise Rule 1180 by  
17 eliminating the 40,000-bpd exemption to bring Rule 1180 into compliance with the  
18 Monitoring Mandate, in violation of its duties under Section 40702.

19  
20 **FOURTH CAUSE OF ACTION**

21 (Violation of the Health & Safety Code—Failure to Collect Fees from Refineries with Capacities  
22 Below 40,000 Barrels per Day)

23 59. Petitioner incorporates by reference the allegations set forth in paragraphs 1  
24 through 58 above.

25 60. The Monitoring Mandate subdivision (f) requires owners of petroleum refineries  
26 to be responsible for the costs of developing, installing, operating, and maintaining refinery  
27 fenceline and community air monitoring systems near each refinery. The Monitoring  
28



1 Mandate subdivision (f) applies to all refineries and does not give the Air District discretion  
2 to exempt refineries of a certain size.

3 61. As of January 1, 2020, the Air District has failed to collect fees for community air  
4 monitoring systems from refineries with a capacity below 40,000 bpd. The Air District's  
5 failure to collect fees has resulted in a lack of community monitoring in impacted  
6 communities and fewer available resources to provide community air monitoring, in violation  
7 of its duties under the Monitoring Mandate.

8  
9 **PRAYER FOR RELIEF**

10 WHEREFORE, Petitioner prays for judgment as set forth below:

11 I. As to the FIRST CAUSE OF ACTION:

- 12 1. For a writ of mandate or peremptory writ issued under the seal of this Court  
13 pursuant to Code of Civil Procedure section 1085 commanding the Air District to  
14 comply with the Monitoring Mandate by installing community air monitoring  
15 systems near each refinery in its jurisdiction, including refineries with a capacity of  
16 less than 40,000 barrels per day of crude oil;
- 17 2. For a declaration under Code of Civil Procedure section 1060 that the Air District  
18 is violating California's Health and Safety Code by failing to install community air  
19 monitoring systems near each refinery within the South Coast Air Basin; and
- 20 3. For injunctive relief under Code of Civil Procedure section 526, ordering the Air  
21 District to stop violating the Monitoring Mandate as described under section I,  
22 subdivision 1 above.

23 II. As to the SECOND CAUSE OF ACTION:

- 24 1. For a writ of mandate or peremptory writ issued under the seal of this Court  
25 pursuant to Code of Civil Procedure section 1085 commanding the Air District to  
26 comply with the Monitoring Mandate by developing refinery fenceline and  
27 community air monitoring guidance for all refineries;

2. For a declaration under Code of Civil Procedure section 1060 that the Air District is violating California's Health and Safety Code by failing to develop refinery fenceline and community air monitoring guidance for all refineries by the January 1, 2020, compliance deadline; and
3. For injunctive relief under Code of Civil Procedure section 526, ordering the Air District to stop violating the Monitoring Mandate as described under section II, subdivision 1 above.

III. As to the THIRD CAUSE OF ACTION:

1. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant to Code of Civil Procedure section 1085 commanding the Air District to comply with Section 40702 by developing a rule that complies with the Monitoring Mandate to install refinery fenceline and community air monitoring systems at all refineries;
2. For a declaration under Code of Civil Procedure section 1060 that the Air District is violating California's Health and Safety Code by failing to develop a rule that complies with the Monitoring Mandate by the January 1, 2020, compliance deadline; and
3. For injunctive relief under Code of Civil Procedure section 526, ordering the Air District to stop violating the Monitoring Mandate as described under section III, subdivision 1 above.

IV. As to the FOURTH CAUSE OF ACTION:

1. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant to Code of Civil Procedure section 1085 commanding the Air District to comply with the Monitoring Mandate by collecting fees for community air monitoring systems from all refineries in the South Coast Air Basin;
2. For a declaration under Code of Civil Procedure section 1060 that the Air District is violating California's Health and Safety Code by not collecting fees from all

1 refineries to pay for community air monitoring systems in impacted communities;  
2 and

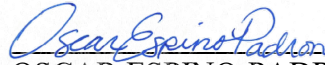
- 3 3. For injunctive relief under Code of Civil Procedure section 526, ordering the Air  
4 District to stop violating the Monitoring Mandate as described under section IV,  
5 subdivision 1 above.

6 V. 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  
9 applicable authority; and  
10 3. For such other legal and equitable relief as this Court deems appropriate and just.

11  
12 Respectfully Submitted,

13  
14 DATED: December 19, 2022



15 OSCAR ESPINO-PADRON  
16 BYRON CHAN  
17 ANGELA JOHNSON MESZAROS  
18 EARTHJUSTICE

19 *Attorneys for Petitioner/Plaintiff East Yard*  
20 *Communities for Environmental Justice*

1 **VERIFICATION**

2  
3 I, Laura Cortez, hereby declare:

4 I am the authorized representative for the East Yard Communities for Environmental  
5 Justice, a non-profit corporation based in Los Angeles County, California. I have read the  
6 foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR  
7 DECLARATORY AND INJUNCTIVE RELIEF and am familiar with its contents. The facts  
8 alleged in it are true to my personal knowledge and belief.

9 I declare under penalty of perjury under the laws of the State of California that the above  
10 is true and correct and that this verification is executed on this 12 day of December 2022 at Los  
11 Angeles, California.

12  
13 

14 Laura Cortez