

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE. 06/26/17

DEPT. 15

HONORABLE RICHARD FRUIN

JUDGE

E. GARCIA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

H. AVALOS, C.A.

Deputy Sheriff

NONE

Reporter

BS156207

Plaintiff

Counsel

SPIRIT OF THE SAGE COUNCIL ET A

NO APPEARANCES

VS

Defendant

CITY OF PASADENA ET AL

Counsel

CEQA

170.6 O'DONNELL - RESPONDENT

NATURE OF PROCEEDINGS:

NON-APPEARANCE CASE REVIEW;

The Court is in receipt of the Proposed Judgment Granting Peremptory Writ of Mandate and the Proposed Writ of Mandate.

The Court having reviewed the said documents, finds the judgment to be proper, and the said judgment is signed and filed this date. Counsel for the Petitioner to file Notice of Entry Judgment.

The Proposed Writ of Mandate is forwarded to Room 118, with the check for \$25.00 for the Clerk's signature.

The Court also issues the following document: NOTICE OF ENTRY OF JUDGMENT AND PEREMPORTY WRIT OF MANDATE

Said document and the said judgment are both served on all sides via U.S. Mail.

CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the minute order dated 6/26/17,

MINUTES ENTERED 06/26/17 COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 06/26/17			DEPT. 15
HONORABLE RICHARD FRUIN	JUDGE	E. GARCIA	DEPUTY CLERK
HONORABLE	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
H. AVALOS, C.A.	Deputy Sheriff	NONE	Reporter

BS156207 SPIRIT OF THE SAGE COUNCIL ET A VS CITY OF PASADENA ET AL CEQA 170.6 O'DONNELL - RESPONDENT	Plaintiff Counsel Defendant Counsel	NO APPEARANCES
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NATURE OF PROCEEDINGS:

upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: 6/26/17

Sherri R. Carter, Executive Officer/Clerk

By: _____
 E. GARCIA, DEPUTY CLERK

TODD T. CARDIFF
 LAW OFFICE OF TODD T. CARDIFF
 1901 FIRST AVE., SUITE 219
 SAN DIEGO, CA 92101

MINUTES ENTERED 06/26/17 COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 06/26/17

DEPT. 15

HONORABLE RICHARD FRUIN

JUDGE

E. GARCIA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

H. AVALOS, C.A.

Deputy Sheriff

NONE

Reporter

BS156207

Plaintiff

Counsel

SPIRIT OF THE SAGE COUNCIL ET A
VS

NO APPEARANCES

CITY OF PASADENA ET AL

Defendant

Counsel

CEQA

170.6 O'DONNELL - RESPONDENT

NATURE OF PROCEEDINGS:

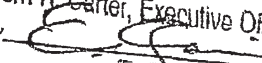
THERESA E. FUENTES
PASADENA CITY ATTORNEY'S OFFICE
100 N. GARFIELD AVE., ROOM N210
PASADENA, CA 91109



BRYAN W. PEASE
LAW OFFICE OF BRYAN W. PEASE
3170 FOURTH AVE., SUITE 250
SAN DIEGO, CA 92103

MINUTES ENTERED 06/26/17 COUNTY CLERK

JUN 26 2017

Sherri R. Carter, Executive Officer/Clerk
By  Deputy
S. Garcia

NOTICE OF ENTRY OF JUDGMENT AND PEREMPTORY WRIT OF MANDATE

**SPIRIT OF THE SAGE COUNCIL, PROJECT SOLITON v. CITY OF PASADENA,
CITY OF PASADENA WATER AND POWER, Case No. BS 156207**

The court issued its Statement of Decision on Petition for Writ of Mandate on March 20, 2017. The court thereafter received drafts for a Judgment and Peremptory Writ of Mandate from each side. The court held a hearing on April 24, 2017 to discuss and resolve the parties' differences as to the proposed draft Judgment and Peremptory Writ of Mandate.

The parties have since lodged revised drafts for the Judgment and Peremptory Writ of Mandate, and also objections to the drafts proposed by the other side. The principal issue dividing the parties has been the definition of those parts of the Project that are to be severed from the Peremptory Writ. The court's Statement of Decision, p. 16 provides:

The Project has separate components and petitioners have not challenged the City's approvals as to certain parts of the Project. The parties may consider whether a severance is appropriate under Public Resources Code section 21168.9(b) and submit a Writ providing for an appropriate severance. Any severance, however, must not prejudice full compliance with CEQA.

The City lodged a proposed Judgment and a proposed Peremptory Writ of Mandate on May 3, 2017. Petitioners lodged their objections and also submitted their proposed Judgment and Peremptory Writ of Mandate on June 1. The City filed its Further Memorandum and the Declaration of Gary Takara and lodged revised drafts for a Judgment and Peremptory Writ of Mandate on June 20. Petitioners filed their objections on June 22, and requested therein that the court hold another hearing to settle the form of the Judgment and Peremptory Writ of Mandate. The court declines to hold a further hearing. The City has proposed a Writ that defines a severance in a manner that "will not," the City promises, "prejudice complete and full compliance with CEQA." The definition of the parts of the project that may proceed are defined in detail in the Takara declaration and are sufficiently described in the proposed Peremptory Writ of Mandate. The court accordingly adopts the forms lodged by the City.

The court has signed, entered and herewith serves its Judgment and Peremptory Writ of Mandate.

DATED: June 26, 2017



RICHARD L. FRUIN, JR.
Superior Court of California
County of Los Angeles

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FILED
Superior Court of California
County of Los Angeles

JUN 26 2017

Sherril B. Carter, Executive Officer/Clerk
By [Signature] Deputy
E. Garcia

REC'D

JUN 20 2017

FILING WINDOW

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

SPIRIT OF THE SAGE COUNCIL, a
California Public Benefit Corporation;
PROJECT SOLITON, a California Public
Benefit Corporation

Petitioners,

v.

CITY OF PASADENA, a public entity;
CITY OF PASADENA WATER AND
POWER; and DOES 1 through 25,
inclusive;

Respondents.

Case No. BS 156207

Assigned for All Purposes to the
Honorable Judge Richard Fruin
Department 15

**[PROPOSED] JUDGMENT
GRANTING PEREMPTORY WRIT
OF MANDATE**

1 This matter came on regularly for hearing on December 15, 2016, with additional
2 hearings on January 13 and 18, 2017, in Department 15 of this Court, located at 111 N.
3 Hill Ave., Los Angeles CA. Todd T. Cardiff and Bryan W. Pease appeared on behalf of
4 petitioners Spirit of the Sage Council and Project Soliton, and Theresa E. Fuentes,
5 Assistant City Attorney, appeared on behalf of respondent City of Pasadena and its Water
6 and Power Department.

7 The Court, having reviewed the record of respondent's proceedings in this matter,
8 the briefs submitted by all parties, and the oral argument of all counsel; the matter having
9 been submitted for decision and the Court having ruled on the entirety of the matter as set
10 forth in its Statement of Decision attached hereto; the Court having invited the parties to
11 propose severance of the project pursuant to Public Resources Code Section 21168.9 and
12 consistent with its Statement of Decision; and the Court having directed that judgment and
13 a peremptory writ of mandate issue in this proceeding,

14 **IT IS ORDERED THAT:**

- 15 1. Judgment is entered in favor of petitioners in part.
- 16 2. A peremptory writ of mandate directed to respondent shall issue under seal of this
17 Court, invalidating respondent's approval of Conditional Use Permit No. 6222 and
18 certification of a Mitigated Negative Declaration with the exception of those specific
19 project elements the Court found severable under Public Resources Code Section
20 21168.9(b), as set forth in the Writ.
- 21 3. Petitioners are entitled to costs of suit. This Court reserves jurisdiction over this
22 matter to determine entitlement to attorneys' fees after proper notice and motion.
- 23 4. This Court also reserves jurisdiction over any return on the writ of mandate by
24 respondent.

25
26 DATED: June 26, 2017

By: Richard Fruin
Honorable Judge Richard Fruin

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, CLAIRE A. VORHIS, hereby declare and state:

I am employed in the County of Los Angeles; I am over the age of eighteen years and not a party to the within entitled action. My business address is 100 North Garfield Avenue, Suite N210, Pasadena, California. My mailing address is PO Box 7115, Pasadena, CA 91109-7215.

On June 20, 2017, I served the foregoing document described as:

[PROPOSED] JUDGMENT GRANTING PEREMPTORY WRIT OF MANDATE

on the interested parties by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

BY FACSIMILE: Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax number. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out is attached..

BY MAIL:

As follows: I am "readily familiar" with the City's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Pasadena, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I deposited such envelope in the mail at Pasadena, California. The envelope was mailed with postage fully prepaid.

BY PERSONAL SERVICE:

I delivered such envelope by hand to the offices of the addressee pursuant to CCP § 1011.

BY EMAIL OR ELECTRONIC TRANSMISSION:

Based on an agreement of the parties to accept service by e-mail or electronic transmission (with a courtesy hard copy should any document exceed 30 pages), I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

EXECUTED on June 20, 2017, at Pasadena, California.



CLAIRE A. VORHIS

ATTORNEYS' SERVICE LIST

1
2 SPIRIT OF THE SAGE COUNCIL, a California Public Benefit Corporation;
3 PROJECT SOLITON, a California Public Benefit Corporation, Petitioners v. CITY
4 OF PASADENA, a public entity; CITY OF PASADENA WATER AND POWER;
5 and DOES 1 through 25, inclusive, Respondents.

6 City Attorney File No. 7534
7 Case No. BS 156207

8 Todd T. Cardiff, Esq.
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11 San Diego, CA 92101
12 Telephone: (619) 546-5123
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Attorneys for Petitioner

15 and -

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19 San Diego, CA 92103
20 bryanpease@gmail.com

Attorneys for Petitioner

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CITY ATTORNEY
CITY OF PASADENA
CIVIL DIVISION