

FILED
Superior Court of California
County of Los Angeles

09/19/2023

David W. Slayton, Executive Officer / Clerk of Court

By: A. Maglalang Deputy

1 HANSON BRIDGETT LLP
2 ALENE M. TABER, SBN 218554
3 ataber@hansonbridgett.com
4 777 S. Figueroa Street, Suite 4200
5 Los Angeles, California 90017
6 Telephone: (213) 395-7620
7 Facsimile: (213) 396-7615

8 Attorneys for Petitioner
9 SAVE OUR RURAL TOWN

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES - CENTRAL DISTRICT

13 SAVE OUR RURAL TOWN,

14 Petitioner,

15 vs.

16 COUNTY OF LOS ANGELES, LOS
17 ANGELES COUNTY BOARD OF
18 SUPERVISORS; and DOES 1 to 20,
19 inclusive,

20 Respondents.

CASE NO. 23STCP03422

**FIRST AMENDED VERIFIED PETITION
BY SAVE OUR RURAL TOWN FOR: (1)
WRIT OF MANDATE [CODE CIV.
PROC., § 1085 AND PUB. RES. CODE, §§
21168.5 AND 21168.9]; (2) WRIT OF
ADMINISTRATIVE MANDAMUS [CODE
CIV. PROC., § 1094.5 AND PUB. RES.
CODE, §§ 21168 AND 21168.9]; (3)
DECLARATORY RELIEF; AND (4)
INJUNCTIVE RELIEF**

21 HECATE GRID HUMIDOR STORAGE I
22 LLC; HECATE GRID LLC; KENT
23 TRUCKOR; WATT ENTERPRISES,
24 LTD., LP; WATT ENERGY LLC;
25 NINYO & MOORE GEOTECHNICAL &
26 ENVIRONMENTAL SCIENCES
27 CONSULTANTS; COUNTY OF LOS
28 ANGELES; and ROES 1 to 20, inclusive,

Real Parties in Interest

1 **INTRODUCTION**

2 1. Hecate Grid Humidor Storage 1 LLC (“Hecate”) plans to construct and operate
3 multiple utility-scale “Battery Electric Storage Systems” (“BESS”) in the northeast portion of the
4 Community of Acton located in unincorporated Los Angeles County, Hecate refers to them as the
5 “Humidor BESS”, the “Flea Flicker BESS” and the “Maathai BESS” (collectively, “Hecate
6 Transmission BESS”). The Hecate Transmission BESS will be interconnected to the California
7 Transmission Grid via a new 230 kV “Hecate Transmission Line” that will be constructed and
8 owned by Hecate and will terminate at the Vincent Transmission Substation which is owned by
9 Southern California Edison (“SCE”) and is also located in Acton. Hecate has also requested that
10 the County of Los Angeles (“County”) adopt a Proprietary Franchise Ordinance (“Franchise
11 Ordinance”) that will grant a thirty-five (35) year proprietary electrical transmission franchise to
12 Hecate and permit Hecate to construct, operate, and maintain the Hecate Transmission line in and
13 along County road rights-of-way. Together, the Hecate Transmission BESS, the Hecate
14 Transmission Line, and the Franchise Ordinance comprise the “Hecate Transmission Project” and
15 all land use entitlements associated with the Hecate Transmission Project are under the
16 jurisdiction of Respondent, County of Los Angeles.

17 2. The Hecate Transmission BESS, the Hecate Transmission Line, and the Franchise
18 Ordinance are interdependent: the sole purpose of the Hecate Transmission Line is to connect the
19 Hecate Transmission BESS to California’s Transmission Grid, the sole purpose of the Franchise
20 Ordinance is to permit the construction and operation of the Hecate Transmission Line, and the
21 Hecate Transmission BESS will serve no purpose at all without the Hecate Transmission Line to
22 deliver its power to California’s Transmission Grid. None of these activities have independent
23 utility and all are useless without the others.

24 3. Hecate applied to the County for a land use approval of the Humidor BESS
25 component of the Hecate Transmission BESS. The Humidor BESS is a utility-scale, 420-
26 megawatt (“MW”) facility that straddles two separate but contiguous parcels; one parcel has a
27 “light industrial” land use designation (“IL”) and is zoned for light industrial/ manufacturing uses
28

1 ("M-1") and the other parcel is partially zoned M-1 with an IL land use designation and partially
2 zoned heavy agriculture ("A2") with a Rural Land Use designation ("RL5"). County ministerially
3 approved the Humidor BESS on August 1, 2023 and filed a Notice of Exemption ("NOE") on
4 August 16, 2023 with the County Clerk's Office declaring the Humidor BESS is exempt from the
5 California Environmental Quality Act ("CEQA").

6 4. On January 10, 2023, Respondent the Los Angeles County Board of Supervisors
7 ("Board") approved a resolution declaring its intention to grant the Hecate Transmission Line
8 Franchise Ordinance; that same day, the Board found that the Franchise Ordinance is exempt from
9 CEQA. The Franchise Ordinance has not yet been adopted; however, by approving a resolution
10 of intent to adopt the Transmission Line Franchise Ordinance and finding that it is exempt from
11 CEQA, County has established a review and approval process for the Hecate Transmission Line
12 that is separate and distinct from the Hecate Transmission BESS.

13 5. Once the Franchise Ordinance is adopted, Hecate will seek ministerial approval
14 of building permits from the County to construct and operate the Hecate 230 kV Transmission
15 Line. The County has not approved building permits for the Hecate Transmission Line nor filed
16 an NOE with the County Clerk's Office.

17 6. Given the County's plan to haphazardly approve individual components of the
18 Hecate Transmission Project and the risk that individual components will be constructed before
19 all approvals are obtained for the remaining components, SORT files this lawsuit to challenge the
20 entire Hecate Transmission Project at this time.

21 7. In response to the County's actions pertaining to the various Hecate Transmission
22 Project components, community residents, Save Our Rural Town, and the Acton Town Council
23 provided extensive comments to the County enumerating various procedural and technical errors
24 embodied in these actions. The Acton Town Council is a non-governmental organization that
25 advocates for the benefit of the Community of Acton; according to its corporate bylaws, the
26 Council represents community interests and presents community concerns to government
27 agencies (among other things). Acton Town Council members are elected by the registered voters
28 of the Community of Acton.

1 8. Acton is a quiet, rural, and equestrian community in the unincorporated area of
2 Los Angeles County. Acton is sparsely populated with less than 7,500 residents scattered
3 throughout a 100 square mile area, and is located between the urban communities of Palmdale
4 and Santa Clarita. For decades, the Community of Acton has consistently sought to protect its
5 rural and equestrian character by discouraging urban infrastructure and encouraging low-
6 intensity, community serving businesses that benefit local residents. Acton is also designated as
7 a Very High Fire Hazard Severity Zone (“VHFHSZ”) by CALFIRE.

8 9. In recognition of Acton’s status as a designated rural community, and to protect
9 Acton’s unique rural and equestrian character, the Board of Supervisors adopted the “Town &
10 Country” Antelope Valley Area Plan in June, 2015 (“AV Area Plan”) which sets forth land use
11 goals and development policies that apply to Acton. Among other things, the Land Use Element
12 of the AV Area Plan establishes appropriate lands for industrial services that are “sufficient to
13 serve the daily needs of rural residents and to provide local employment opportunities”. It also
14 designates that lands which have a light industrial land use in Rural Town Areas are established
15 to provide locations for “industrial uses to serve local residents” and further establishes that the
16 light industrial land uses established in Acton are intended “to provide additional local
17 employment opportunities”.

18 10. The Humidor BESS component of the Hecate Transmission Project is a heavy
19 industry use and is slated to be developed in a designated “Rural Town Area” of Acton where
20 frequent power shutoffs initiated by SCE have occurred. The Humidor BESS only connects to
21 the transmission grid and will not interconnect to any local electrical distribution facilities or
22 deliver any local electrical distribution services, therefore, it will not provide backup electrical
23 service to the Community when power shutoffs occur. Additionally, the Humidor BESS will
24 operate autonomously (unstaffed) and will not provide local employment opportunities; it offers
25 no local services and provides no community benefits.

26 11. Under the County Code, utility-scale, transmission-grid connected BESS facilities
27 like the Humidor BESS are neither allowed in the light industrial (M-1) Zone nor authorized on
28 property with a “light industrial” (IL) land use designation; nonetheless, the Los Angeles County

1 Department of Regional Planning (“Regional Planning”) ministerially approved the Humidor
2 BESS via a site plan review (RPPL 2023-000687) by concluding that it is “similar” to an
3 “Electrical Distribution Substation” and therefore eligible for the same ministerial approval
4 process that applies to “Electrical Distribution Substations” in the M-1 zone. However, the
5 County Code does not permit Regional Planning to approve a use that is not allowed in the M-1
6 “light” industrial zone by determining that it is “similar” to an allowed use; in fact, the Code
7 permits Regional Planning to make such similarity determinations only in heavy industry zones
8 (specifically, M-1.5 and M-2 zones). Equally important, the evidentiary record demonstrates that
9 the Humidor BESS is not in any way similar to an “Electrical Distribution Substation” and that,
10 therefore, Regional Planning’s conclusion that the Humidor BESS is “similar” to an “Electrical
11 Distribution Substation” lacks basis and is without merit. Accordingly, Regional Planning’s
12 ministerial approval of the Humidor BESS was improper.

13 12. The evidentiary record shows that none of the components of the Hecate
14 Transmission Project (Hecate’s Transmission BESS, Hecate’s Transmission Line, and Hecate’s
15 Transmission Franchise Ordinance) are exempt individually or cumulatively from CEQA and that
16 the County erred substantially when it segmented the Hecate Transmission Project into separate
17 components and then declared that separate components are individually exempt from CEQA.
18 The record also demonstrates that the Hecate Transmission Project is inconsistent with adopted
19 planning documents and the Zoning Code. Furthermore, there is substantial evidence in the record
20 to support a fair argument that the environmental effects of the Hecate Transmission Project may
21 be significant and that the Project will result in cumulatively significant impacts.

22 13. Petitioner Save Our Rural Town (“SORT”) requests a writ and accompanying
23 declaratory and injunctive relief ordering the County to set aside and void all approvals, findings,
24 and issuances related to all components of the Hecate Transmission Project and prohibiting the
25 County and Real Parties in Interest from taking any further actions with respect to any component
26 of the Hecate Transmission Project until they have demonstrated full compliance with all
27 applicable legal requirements, including, but not limited to, CEQA, the Los Angeles County Code,
28 and the Antelope Valley Area Plan.

JURISDICTION AND VENUE

1
2 14. This Court has jurisdiction over the writ actions under sections 1085 and 1094.5
3 of the Code of Civil Procedure, and sections 21168 and 21168.5 of the Public Resources Code.

4 15. This Court has jurisdiction over the declaratory relief action under California Code
5 of Civil Procedure section 1060 et seq.

6 16. This Court has jurisdiction over the injunctive relief action under California Code
7 of Civil Procedure section 526 et seq.

8 17. SORT also brings this case in the enforcement of an important right affecting the
9 public interest under California Code of Civil Procedure § 1021.5.

10 18. Venue is proper in this Court. The Hecate Transmission Project that is the subject
11 of this action is located in Acton, an unincorporated area of Los Angeles County. In accordance
12 with Local Court Rule 3.232, subdivision (b), this CEQA action is being filed in the Central
13 District.

PARTIES AND STANDING

14
15 19. Petitioner "Save Our Rural Town" is a grassroots unincorporated association
16 formed under the laws of the State of California that works to protect rural communities from
17 significant environmental impacts and other harms.

18 20. Further, members of SORT own real property in unincorporated Los Angeles
19 County, are County taxpayers, are within the class of persons beneficially interested in the
20 enforcement of land use and zoning laws which protect the quality of the environment of the
21 County, will be harmed by the environmental impacts if the Hecate Transmission Project is carried
22 out in violation of CEQA and applicable land use plans and zoning restrictions, and are entitled
23 to procure enforcement of a public duty (i.e., the County's duty to comply with state and local
24 laws).

25 21. Respondent County of Los Angeles is a Charter County and local agency which,
26 among other things, is responsible for reviewing and approving private development projects in
27 unincorporated areas of Los Angeles County. The County is the lead agency under CEQA for the
28 Hecate Transmission Project.

1 22. Respondent County ministerially approved the Humidor BESS component of the
2 Hecate Transmission Project and filed a Notice of Exemption that the Humidor BESS is
3 ministerially and categorically exempt from CEQA. The County is also separately reviewing the
4 Hecate Transmission Franchise Ordinance and the Hecate Transmission Line for which it intends
5 to issue building permits and other approvals.

6 23. Respondents Los Angeles County Board of Supervisors adopted a resolution
7 declaring its intention to approve the Franchise Ordinance that is necessary to construct and
8 operate the Hecate Transmission Line component of the Hecate Transmission Project and
9 found that it is categorically exempt from CEQA.

10 24. Real Party in Interest is Watt Enterprises, Ltd., LP ("Property Owner") who
11 Petitioner is informed and believes owns the Property upon which the Humidor BESS component
12 of the Hecate Transmission Project will be constructed.

13 25. Real Party in Interest is Watt Energy LLC whom Petitioner is informed and
14 believes is affiliated with Watt Enterprises, Ltd., LP.

15 26. Real Party in Interest is Hecate Grid Humidor Storage 1 LLC who Petitioner is
16 informed and believes will own the Humidor BESS component of the Hecate Transmission
17 Project and will be granted a franchise to construct and operate the Hecate Transmission Line
18 component of the Hecate Transmission Project.

19 27. Real Party in Interest is Kent Truckor who is identified as the Project Applicant in
20 the Land Use Application submitted to the Department of Regional Planning for the Humidor
21 BESS component of the Hecate Transmission Project and identified as the owner/applicant in the
22 road permit issued for the excavation of soil borings on Angeles Forest Highway.

23 28. Real Party in Interest is Hecate Grid LLC who is identified as the owner/applicant
24 in the road permit issued for the excavation of soil borings on Angeles Forest Highway.

25 29. Real Party in Interest is Ninyo & Moore Geotechnical & Environmental Sciences
26 Consultants who is identified in the road permit issued for the excavation of soil borings on
27 Angeles Forest Highway as the exclusive entity than can work under the permit, and thus a
28 recipient of an approval.

1 38. On June 28, 2021, Hecate executed a “Large Generator Interconnection
2 Agreement” for the Humidor BESS component of the Hecate Transmission Project; other
3 signatories were CAISO and SCE.

4 39. On or around October 18, 2021, Regional Planning issued a memorandum titled
5 “Subdivision And Zoning Ordinance Interpretation No. 2021-03” which declared that Battery
6 Electric Storage Systems shall be considered most similar to “Electrical Distribution Substations”.

7 40. On or around July 14, 2022, Hecate submitted a Site Plan to Regional Planning for
8 the Humidor BESS component of the Hecate Transmission Project (RPPL2022008009).

9 41. On August 8, 2022, Regional Planning ministerially approved the Humidor BESS
10 component of the Hecate Transmission Project.

11 42. On December 7, 2022, Kent Truckor sent an electronic mail (“email”) on behalf
12 of Hecate to the Acton Town Council requesting an opportunity to present the Humidor BESS
13 component of the Hecate Transmission Project to the Community of Acton; in response, the Acton
14 Town Council offered to convene a Special Meeting on January 9, 2023 to address the matter.

15 43. On December 12, 2022, the Los Angeles County Department of Public Works
16 (“Public Works”) approved a permit that exclusively authorized Ninyo & Moore Geotechnical &
17 Environmental Sciences Consultants to conduct road excavation for soil borings of varying depths
18 (10’, 20’, 40’) at 6 locations on Angeles Forest Highway; the permit identifies Hecate Grid, LLC
19 (“Hecate Grid”) and Kent Truckor as the Project Owner/Applicant.

20 44. On January 9, 2023, the Acton Town Council convened a Special Meeting to
21 discuss the Humidor BESS; Mr. Truckor was present along with other Hecate representatives,
22 agents, and consultants. Among other things, Councilmembers and residents articulated their
23 concerns that: the Humidor BESS poses a significant conflagration risk in Acton which is
24 exacerbated by the fact that Acton is a Very High Fire Hazard Severity Zone, the County Code
25 does not allow utility scale, grid connected BESS facilities in the M-1 zone, and that the Humidor
26 BESS site plan indicates a large portion of the project will be constructed on agriculturally zoned
27 property which is not permitted by the County Code. Hecate representatives responded that the
28 Humidor BESS was already approved ministerially by Regional Planning and that, while the

1 Humidor BESS does pose a fire concern, the project would include fire protection infrastructure;
2 they also confirmed that the Humidor BESS poses a higher fire risk than what currently exists at
3 the site and that this risk cannot be eliminated. Councilmembers were greatly surprised that the
4 Humidor BESS had already been approved. Hecate clarified that it intended to construct
5 additional BESS facilities in the same area of Acton where the Humidor BESS was approved and
6 that these facilities were identified as the "Flea Flicker BESS" and the "Maathai BESS". Hecate
7 affirmed that these BESS were undergoing review and approval by CAISO for interconnection to
8 the California Transmission Grid and that the 230 kV Hecate Transmission Line would connect
9 all three Hecate BESS facilities (Humidor, Flea Flicker, and Maathai) to SCE's Vincent
10 Transmission Substation. The cumulative generation capacity of these BESS is approximately
11 1,000 MW. Next, representatives from Public Works announced that a resolution pertaining to
12 the 230 kV Hecate Transmission Line would be introduced for consideration by the Board of
13 Supervisors on the next day (January 10, 2023); the resolution expressed an intent to adopt the
14 Franchise Ordinance granting a 35-year proprietary franchise to Hecate to construct, maintain,
15 and operate the 230 kV Hecate Transmission Line in Acton and set a public hearing date in
16 February, 2023. Staff indicated that the Hecate Transmission Line was exempt from CEQA.
17 Community residents expressed great surprise that the Board was poised to approve the Franchise
18 Ordinance authorizing the construction of a new high voltage transmission line in Acton without
19 any environmental review and without notifying the community or conducting any outreach to
20 area residents.

21 45. On January 10, 2023, the Board considered a resolution of intent to adopt the
22 Franchise Ordinance granting a Proprietary Franchise for the 230 kV Hecate Transmission Line
23 and further considered whether the Franchise Ordinance was exempt from CEQA. The resolution
24 asserted the Franchise Ordinance met the criteria for Class 1, 3, 4, and 11 categorical exemptions.
25 A representative of the Acton Town Council offered public comment stating (among other things)
26 that the Franchise Ordinance was not exempt from CEQA, that the environmental impacts of the
27 230 kV Hecate Transmission Line must be addressed together with the impacts of the three
28 proposed Hecate's BESS developments "as a whole project", and that Regional Planning should

1 not have ministerially approved the Humidor BESS Project because it is not “similar” to an
2 “Electrical Distribution Substation”. Following public comment, the Board approved a resolution
3 of intent to adopt the Franchise Ordinance and grant Hecate the right to construct, maintain, and
4 operate the Hecate Transmission Line; the Board also made an express finding that the granting
5 of the Franchise Ordinance is exempt from CEQA and set a public hearing for February 14, 2023.

6 46. On January 11, 2023, the Acton Town Council contacted Regional Planning via
7 email and explained that the Humidor BESS would occupy both A1 and M1 zoned land, that this
8 is not permitted by the County Zoning Code, and that the Humidor BESS could not be approved
9 ministerially.

10 47. On or around February 3, 2023, Hecate submitted an amended Site Plan for the
11 Hecate Transmission BESS Project to Regional Planning (RPAP2023000718). The new site plan
12 appeared to limit the BESS facilities to only the M-1 zoned portions of the project site.

13 48. On February 6, 2023, the Director of Save Our Rural Town (“SORT”) submitted
14 comments via email to the Director of Regional Planning explaining that “Interpretation No.
15 2021-03” did not provide adequate basis to ministerially approve the Humidor BESS because the
16 Humidor BESS is not similar to an electrical distribution substation. SORT explained that
17 transmission connected BESS like Hecate’s are transmission grid assets that support transmission
18 grid operations and enhance transmission grid reliability; they are connected directly to the
19 California transmission grid, they are controlled and dispatched by the CAISO, and they are
20 subject to the Federal Energy Regulatory Commission (“FERC”) jurisdiction. SORT further
21 articulated that FERC has established standards for determining whether an electrical facility is a
22 “distribution facility” (over which FERC has no jurisdiction) or a “transmission facility” (over
23 which FERC has jurisdiction) and that, according to adopted FERC standards, Hecate’s BESS are
24 transmission, not distribution. SORT explained that the only time a BESS can be considered a
25 “distribution substation” is when it serves a distribution function; namely, when it is connected to
26 a distribution grid, it operates at a distribution voltages (typically 12 kV for SCE), it supplies
27 power directly to surrounding customers (i.e., nearby businesses and residents) and it is not
28 connected to the CAISO-controlled transmission grid; because none of Hecate’s BESS facilities

1 comport with these requirements, they are not “distribution substations” and they are nothing like
2 “distribution substations”. SORT clarified that, because “Interpretation Memo No. 2021-03” fails
3 to distinguish between Distribution BESS and Transmission BESS and simply declares all BESS
4 to be “electrical distribution substations”, it contradicts adopted utility standards, it improperly
5 conflates transmission with distribution, and is utterly contrary to state and federal standards. All
6 of these factors render “Interpretation Memo No. 2021-03” fatally flawed and entirely
7 inapplicable to all transmission grid connected BESS, including the Humidor BESS and all other
8 proposed Hecate BESS. SORT closed by articulating that “Interpretation No. 2021-03 is
9 substantially erroneous and it provides no basis” for approving the Humidor BESS.

10 49. On February 7, 2023, the Acton Town Council submitted an email to Regional
11 Planning explaining that the Humidor BESS cannot be approved with a ministerial site plan
12 review because it is not more similar to an “Electrical Distribution Substation”; it is more similar
13 to an “Electrical Transmission Substation”. Therefore, under the Zoning Code, it cannot be
14 approved ministerially in the M-1 zone.

15 50. On February 7, 2023, members of the Acton Town Council met with County staff
16 from Regional Planning, Public Works, the Fire Department, and the 5th District Supervisor’s
17 Office to discuss the Hecate Transmission BESS, the Hecate Transmission Franchise Ordinance,
18 and the Hecate Transmission Line. Acton Town Council members pointed out that together, these
19 projects form the “whole” project because the Hecate Transmission line, the Hecate Transmission
20 Franchise Ordinance, and the Hecate Transmission BESS are interdependent and neither have
21 “independent utility”: the impacts of this “whole” project must be addressed before any individual
22 project component can be approved, the BESS poses a particularly significant public safety risk
23 due to its propensity for deflagration which is magnified by the fact that Acton is a designated
24 VHFHSZ, and that the proximity of the BESS to residential neighborhoods would result in further
25 increases in homeowner insurance premiums (noting that many Acton residents had, over the
26 previous 6 months, had their homeowner insurance premiums double and in some cases, increase
27 by nearly a factor of 10 and that many residents had been dropped completely by their insurance
28 companies). It was also pointed out that BESS is not an “allowed use” in the M-1 Zone.

1 Councilmembers asserted that the County's current fire protection standards are not sufficient to
2 address the unique fire risks posed by BESS and that new standards recently adopted by the
3 National Fire Protection Association ("NFPA") should be considered in addition to the County's
4 existing fire protection standards. County staff indicated that they would take these concerns into
5 consideration.

6 51. On February 9, 2023, the Board received a formal protest of the Hecate
7 Transmission Line Franchise Ordinance slated for hearing on February 14, 2023; this protest was
8 submitted by the Acton Town Council pursuant to Section 6234 of the California Public Utilities
9 Code and it set forth specific objections to the Hecate Transmission Line Franchise Ordinance.
10 Among other things, the letter clarified that the categorical exemptions claimed for the Franchise
11 Ordinance were inapplicable, the Hecate Transmission Line would result in significant cumulative
12 environmental impacts because it would interconnect nearly 1,000 MW of BESS facilities
13 proposed by Hecate (including Humidor, Maathai, and Flea Flicker), the Hecate Transmission
14 BESS and the Hecate Transmission Line are merely components of the "whole" Hecate
15 Transmission Project and must therefore be cumulatively considered in a proper CEQA analysis,
16 the Hecate BESS pose a very real and very significant cumulative threat to the safety and security
17 of Acton residents because of their propensity to suddenly undergo spontaneous combustion and
18 because battery facility deflagrations can last hours, days and even weeks, and that this significant
19 risk is exponentially heightened by the fact that Acton is a VHFHSZ. The protest closed with a
20 request to take the Franchise Ordinance Hearing off calendar until the enumerated concerns are
21 addressed.

22 52. On February 9, 2023, Regional Planning issued a rescission of the Site Plan that
23 was approved on August 8, 2022 for the Humidor Transmission BESS because the project was
24 deemed not consistent with the Zoning Code definition of "Electrical Distribution Substation".

25 53. On February 14, 2023, the Board referred the Franchise Ordinance to grant a
26 Proprietary Franchise to Hecate for the Hecate Transmission Line back to Public Works and a
27 public hearing was not convened.

28 54. On May 1, 2023, a presentation was made at the regularly scheduled meeting of

1 the Acton Town Council by Avantus; the presenter reported that a new 1,150 MW BESS facility
2 (the "Angeleno BESS") will be developed in northeast Acton in the vicinity of Hecate's Humidor,
3 Flea Flicker, and Maathai BESS. On that day, Acton residents became aware that more than 2,000
4 MW of battery storage facilities were slated for development in a concentrated area in the
5 northeast portion of the community.

6 55. On May 23, 2023, Hecate convened a public workshop in Acton to present and
7 discuss the Humidor Transmission BESS and the Hecate Transmission Line; during the
8 workshop, Hecate representatives refused to discuss the "Flea Flicker BESS" and the "Maathai
9 BESS" and would only discuss the Humidor Bess. SORT members attended and explained to the
10 Hecate representatives that the BESS facilities need not be located in Acton to connect at 230 kV
11 to the Vincent Substation and that all the risks and impacts posed to the residents of Los Angeles
12 County by Hecate's Transmission Project can be eliminated by placing the BESS outside of
13 developed areas in fire hazard zones and locating them adjacent to any one of the 230 kV lines
14 that connect to the Vincent substation. It was pointed out that there are locations outside of
15 developed areas in fire hazard zones which are adjacent to existing 230 kV lines connected to the
16 Vincent substation; Hecate's BESS could be placed at one of these locations and still provide the
17 same transmission grid benefits that would be provided if they were placed in Acton.

18 56. On June 6, 2023, the Board of Supervisors adopted a motion asserting that "the
19 over-concentration of multiple utility-scale battery storage projects within a few communities" is
20 a "significant concern". The motion specifically identifies Acton as a Community that is facing
21 numerous successive BESS projects where "over-concentration" is of particular concern, and it
22 directed staff to report back with best practices on the permitting of large, utility scale battery
23 storage projects.

24 57. Despite the Board's motion, on August 1, 2023, Regional Planning ministerially
25 approved the Humidor Transmission BESS via a Site Plan review process before providing the
26 Board with the best practices it requested. Section 22.226.040 of the County Code establishes
27 that ministerial approvals issued by Regional Planning cannot be appealed. In a letter to the Acton
28 Town Council dated August 1, 2023, Regional Planning acknowledged that a BESS is not an

1 allowed use under the County Code but explained that uses which are not allowed can nonetheless
2 be approved; the letter cited Section 22.234.020 which allows Regional Planning to interpret the
3 County Code. In essence, the letter asserted that County is authorized to use an “Interpretation
4 Memo” to approve a proposed use that is not allowed by identifying an allowed use that is “most
5 similar” to the proposed use. The letter further stated that Regional Planning had “determined the
6 use most similar to a BESS to be an electric distribution substation (“EDS”)” and that it therefore
7 “may be approved through the Site Plan Review [SPR] process”. The letter asserted that the
8 primary purpose of the Humidor BESS is “to store and distribute electricity for consumer use”;
9 that the Humidor BESS “would not be considered part of the transmission network”; that CAISO
10 oversight is limited merely to the “point of interconnection within the Vincent Substation” and due
11 only to its “point of interconnection to the CAISO-controlled grid”; that BESS facilities are “not
12 regarded as a generator”; that even though Hecate, CAISO, and SCE are parties to a Large Generator
13 Interconnection Agreement for the Humidor BESS, that “does not push a BESS into the definitions
14 of a power generating use”; and that the Humidor BESS “is a low nuisance, light industrial use
15 appropriate for the M-1 zone”. No references were provided to support any of these claims and
16 assertions; they were made without substantiation or citation to any utility standard, technical
17 publication, FERC Order, CAISO report, or decision issued by the California Public Utilities
18 Commission. (“CPUC”)

19 58. On August 16, 2023, County filed with the County Clerk's Office an NOE asserting
20 that, as a ministerially approved action, the Humidor Transmission BESS is exempt from CEQA;
21 it also asserted that the Humidor Transmission BESS is categorically exempt from CEQA (citing
22 Class 3, Class 4, and Class 5 categorical exemption categories).

23 59. On August 24, 2023, SORT submitted a letter to the 5th District Supervisor
24 enumerating all the extensive errors embodied in the County's ministerial approval of the
25 Humidor Transmission BESS and the extent to which it violated the County Zoning Code; the
26 letter also enumerated the extent to which the approval violated CEQA by improperly relying on
27 categorical exemptions, failing to consider impacts of the project, and impermissibly segmenting
28 the Hecate transmission BESS component of the “whole project” from the Hecate Transmission

1 Line component. The letter showed how Regional Planning exceeded its authority by
2 impermissibly using a similarity determination to approve a use that is not allowed in the M-1
3 zone. Citing decisions and regulations issued by the CPUC and FERC, SORT's letter refuted all
4 the claims set forth in Regional Planning's letter dated August 1, 2023 and demonstrated that the
5 Humidor Transmission BESS shares no similarities with an Electrical Distribution Substation,
6 that it will never be used to "store and distribute electricity for consumer use", that it is
7 intrinsically "part of the transmission network", and that it serves as both a generation resource
8 and a load resource per CAISO policy.

9 60. On August 25, 2023, SORT appealed the NOE for the Humidor Transmission
10 BESS to the Board pursuant to Section 15061(e) of the CEQA Guidelines; the appeal set forth
11 reasons why it is not exempt from CEQA and requested that the NOE be vacated. The appeal has
12 not been scheduled for any consideration by the Board. Irrespective of the appeal, the County is
13 proceeding to review and approve components of the Hecate Transmission Project; thus, making
14 this lawsuit necessary at this time.

15 EXHAUSTION OF ADMINISTRATIVE REMEDIES

16 61. SORT availed itself of every opportunity provided by the County to express
17 concerns with the Hecate Transmission Project. SORT submitted extensive written comments
18 setting forth factual evidence which demonstrated that "Interpretation No. 2021-03" is inapposite
19 and should not be relied upon to ministerially approve the Humidor BESS component of the
20 Hecate Transmission Project; these comments demonstrated that the Humidor BESS is not in any
21 way similar to an Electric Distribution Substation and, if similar to anything, it should be deemed
22 more similar to an Electric Transmission Substation. The comments were prepared by SORT
23 Director Jacqueline Ayer; she is a certified environmental engineer with more than 35 years of
24 environmental engineering experience. And, for nearly 20 years, Ms. Ayer has actively
25 participated in both adjudicatory and quasi-legislative proceedings involving electrical
26 transmission projects before the CPUC, the FERC, the Department of Energy ("DOE"), and the
27 California Energy Commission "(CEC)". This participation has, among other things, included
28 the submission of extensive expert witness testimony, briefs, and comments regarding the need

1 and efficacy of proposed electric transmission projects. Accordingly, the comments provided by
2 Ms. Ayer constitute “substantial evidence” as that term is defined by the CEQA Statute
3 [§21080(e)(1)] and CEQA Guidelines [Section 15064(f)(5)]. Ms. Ayer also testified before the
4 Board that the Hecate Transmission BESS and the Hecate Transmission Line are two components
5 of a larger project which, for CEQA purposes, must be considered “as a whole”. Because County
6 ministerially approved the Hecate Transmission BESS, and because County did no outreach
7 regarding the Franchise Ordinance for the Hecate Transmission Line until the night before the
8 Board was to vote on a resolution stating an intent to approve the Franchise Ordinance, the public
9 was provided very little opportunity for comment; nonetheless, SORT and SORT members
10 participated in both of these County actions to the greatest extent possible. Petitioner fully
11 exhausted all administrative remedies.

12 62. Petitioner complied with Public Resources Code section 21167.7 by filing a copy
13 of this Petition with the California Attorney General.

14 63. Petitioner complied with Public Resources Code Section 21167.5 by providing the
15 County with a notice of intention to commence this action. A copy of that notice is attached as
16 Exhibit “A”.

17 64. Petitioner complied with Public Resources Code Section 21167.4 by concurrently
18 filing with this Petition a request that the Court set a hearing on this matter.

19 65. Petitioner complied with Public Resources Code Section 21167.6, subdivision (a)
20 by concurrently filing with this Petition a request that the Respondents prepare the administrative
21 record in this matter in accordance with CEQA and Local Court Rules.

22 66. Petitioner has no plain, speedy or adequate remedy in the course of ordinary law
23 unless this Court grants the requested writs and declaratory and injunctive relief. In the absence
24 of such remedies, development of the legally deficient Humidor Transmission BESS and adoption
25 of the legally deficient Hecate Transmission Line Franchise Ordinance and construction of the
26 legally deficient Hecate Transmission Line will proceed without requisite environmental review
27 and in violation of state law and local county code.

28 67. As a further direct and proximate consequence of Respondents’ actions, Petitioner

1 retained the services of a law firm to require Respondents comply with CEQA and the Los
2 Angeles County Code, and other applicable land use plans.

3 **FIRST CAUSE OF ACTION**

4 **(Writ of Mandate and Writ of Administrative Mandamus for**
5 **CEQA Violations Against All Respondents and**
6 **DOES 1-20 inclusive and ROES 1-20 inclusive)**

7 68. Petitioner re-alleges and incorporates by reference the preceding paragraphs in
8 their entirety, as though fully set forth herein.

9 69. County and the Board have a statutory obligation to comply with CEQA and its
10 Guidelines (Section 15004) prior to making any formal decision regarding projects that are subject
11 to the Act. CEQA precludes the County from finding that a project is ministerially exempt from
12 CEQA pursuant to CEQA Statute §21080(b)(1) if the project is not eligible for ministerial
13 approval. CEQA also permits the County and the Board to find that an activity is categorically
14 exempt from CEQA *only* if it meets eligibility criteria established by Article 19 of the CEQA
15 Guidelines and *only* if none of the exceptions set forth in CEQA Guidelines Section 15300.2. are
16 applicable. The record demonstrates that County violated these CEQA provisions.

17 70. The record demonstrates that County's ministerial approval of the Humidor
18 Transmission BESS lacked foundation and, in particular, the record does not support the County's
19 claim that the Humidor Transmission BESS was ministerially exempt from CEQA. Therefore,
20 County violated CEQA when it issued an NOE asserting that Hecate Transmission BESS facilities
21 are ministerially exempt from CEQA:

- 22 a) Regional Planning approved the Humidor Transmission BESS on property in
23 Acton that has an M-1 (light industrial) zoning designation. However, the Zoning
24 Code is prescriptive and only authorizes specific uses within each particular zone;
25 uses that are not specifically identified as allowed in a particular zone are not
26 permitted in that zone. Section 22.22.030(C) of the Code does not identify BESS
27 as an allowed use in the M-1 zone; therefore, a BESS is not allowed in the M-1
28 zone and cannot be approved in an M-1 zone either ministerially or via

1 discretionary review. Because the County Code precludes ministerial approval of
2 the Humidor Transmission BESS, County's conclusion that the Humidor
3 Transmission BESS is ministerially exempt from CEQA was entirely improper.

4 b) Regional Planning's ministerial approval of the Humidor Transmission BESS
5 hinges entirely on Regional Planning's claim that it is authorized to issue an
6 "Interpretation Memo" Pursuant to County Code Section 22.234.020 to approve a
7 proposed use that is not allowed under the Zoning Code by identifying an allowed
8 use that is "most similar" to the proposed use and then approving the proposed use
9 as if it were the allowed use. However, the County Code grants Regional Planning
10 no such authority. Section 22.234.020 states "When the Director determines that
11 the meaning or applicability of any provision of this Title 22 is subject to
12 interpretation, the Director may issue a written interpretation". Here, the plain
13 language of 22.234.020 only authorizes Regional Planning to interpret the
14 "meaning" and "applicability" of Title 22 provisions; it does not authorize
15 Regional Planning to approve a proposed use that is not allowed by the Zoning
16 Code and it certainly does not allow Regional Planning to approve a proposed use
17 that is not allowed simply because it is deemed "most similar" to an allowed use.
18 Because Section 22.234.020 does not authorize Regional Planning to ministerially
19 approve a proposed use that is not allowed by the Zoning Code, it does not provide
20 any basis for ministerial approval of the Humidor Transmission BESS. Therefore,
21 County's ministerial approval of the Humidor Transmission BESS lacks
22 foundation and County's declaration that the Humidor Transmission BESS is
23 ministerially exempt from CEQA remains unsupported by the record

24 c) There are very few circumstances in which the County Code authorizes Regional
25 Planning to ministerially approve a proposed use that is not an allowed use by
26 ascertaining whether it is "most similar" to an allowed use. This is particularly
27 true for industrial zones that are addressed in Chapter 22.22 of the County Code.
28 Specifically, Section 22.22.030(D) authorizes Regional Planning to ministerially

1 approve a proposed industrial use that is not an allowed use by determining
2 whether it is similar to an allowed industrial use *only in heavy industry zones*
3 (Zones M-1.5 and M-2); the Zoning Code *does not* vest Regional Planning with
4 authority to ministerially approve *any* proposed use in the M-1 zone that is not
5 allowed in the M-1 zone under *any* circumstance *even if* it is similar to a use that
6 is ministerially allowed in the M-1 zone. County had no authority to ministerially
7 approve the Humidor Transmission BESS in the M-1 Zone; by extension, County's
8 conclusion that the Humidor Transmission BESS is ministerially exempt from
9 CEQA is legally insupportable.

- 10 d) Even if the County Code allowed Regional Planning to ministerially approve the
11 Humidor Transmission BESS in an M-1 zone by asserting that it is "similar" to an
12 electrical distribution substation (which it does not), such an assertion would be
13 entirely contradicted by the evidentiary record and therefore rendered wholly
14 invalid. The Humidor Transmission BESS is not in any way "similar" to an
15 "Electrical Distribution Substation" as that term is defined in Section 22.14.050 of
16 the County Code because it is a not a small or low voltage facility, it is not
17 connected to a distribution network, it does not provide electrical service to any
18 customers (i.e. the surrounding residences or businesses), and the power it stores
19 cannot be used by the local distribution network (which requires 12 kV alternating
20 current or "AC" power). To the contrary, it is a large (420 MW) and high voltage
21 (230 kV) facility connected to the California Transmission Grid and therefore
22 controlled by CAISO and operated under FERC jurisdiction, it serves the CAISO
23 transmission grid by providing power storage and voltage support, and the power
24 it stores is 34 kV direct current ("DC") which is completely useless for distribution
25 purposes. Furthermore, transmission-connected BESS facilities like Humidor are
26 designated as "Advanced Transmission Technology" under Section 1223 of the
27 2005 Energy Policy Act ("2005 EAct"); therefore, the Humidor BESS is not in
28 any way related to, or similar to, any sort of "distribution" facility. Accordingly,

1 there is no foundation for the County's claim that the Humidor Transmission BESS
2 facility (or any of Hecate's Transmission BESS facilities) are in any way "similar"
3 to an electrical distribution substation.

- 4 e) Another reason why the Humidor Transmission BESS could not be ministerially
5 approved is because it is located in the Community of Acton and therefore subject
6 to the Acton Community Standards District ("Acton CSD") which is set forth in
7 Chapter 22.302 of the County Code. Specifically, the Acton CSD requires a lot
8 owner to obtain a discretionary Minor Conditional Use Permit ("Minor CUP")
9 before removing all the native vegetation from more than 10% of the lot; because
10 the Humidor Transmission BESS project will result in the removal of all native
11 vegetation from approximately 14% of parcel number 3056-004-0581, it requires
12 a discretionary Minor CUP. Therefore, Regional Planning's ministerial approval
13 of the Humidor Transmission BESS was improper.

14 71. The record demonstrates that the Humidor Transmission BESS does not meet
15 eligibility criteria for the Class 3, Class 4, and Class 5 CEQA exemptions that were claimed in
16 the Notice of Exemption filed by Regional Planning; therefore, County violated CEQA when it
17 issued an NOE for the Humidor Transmission BESS that asserted these exemptions:

- 18 a) The Class 3 Categorical Exemption applies only to the construction of limited
19 numbers of new, small structures; the total number of structures must be less than
20 4 and the area must be less than 10,000 square feet. The Humidor Transmission
21 BESS does not qualify because it involves more than four hundred structures and
22 will disturb nearly 20 acres.
- 23 b) The Class 4 Categorical Exemption applies only to minor alterations to the
24 condition of land (i.e., grading, landscaping, gardening) and minor temporary land
25 uses having negligible effects on the environment. The Humidor Transmission
26 BESS does not qualify because it involves permanent and major alterations to the
27 condition of nearly 20 acres of land and will significantly affect the environment
28 in terms of aesthetics, wildfire risk, water quality, etc.

1 c) The Class 5 Categorical Exemption applies only to projects that consist of minor
2 alterations in land use and which do not result in any changes in land use. The
3 Humidor Transmission BESS does not qualify for this exemption because it does
4 not involve a mere “minor alteration” in land use; to the contrary, it completely
5 eliminates all existing land uses (including a community oriented “paintball”
6 recreational facility) and replaces it with a nearly 20-acre, utility-scale,
7 transmission grid connected battery storage facility.

8 72. The record demonstrates that, even if the Humidor Transmission BESS met any of
9 the eligibility criteria for the Class 3, Class 4, or Class 5 categorical exemptions (which it does
10 not), such exemption are nullified by the exceptions established by Section 15300.2 of the CEQA
11 Guidelines. This further demonstrates that County violated CEQA by issuing an NOE for the
12 Hecate Transmission BESS by asserting inapplicable categorical exemptions:

13 a) The Location Exception set forth in Section 15300.2(a) establishes that Class 3,
14 Class 4, and Class 5 projects are not categorically exempt from CEQA if they are
15 located in a particularly sensitive environment and may “impact on an
16 environmental resource of hazardous or critical concern where designated,
17 precisely mapped, and officially adopted pursuant to law by federal, state, or local
18 agencies”. These are the circumstances presented by the Hecate Transmission
19 BESS which will result in the placement of a high concentration of deflagration-
20 prone battery facilities in a Very High Fire Hazard Severity Zone which has been
21 precisely mapped and adopted by CALFIRE. Because it is a mapped fire hazard
22 area, the Community of Acton is a “particularly sensitive environment” and “an
23 environmental resource of hazardous concern” that may be substantially impacted
24 by the explosion-prone battery facilities that will be installed pursuant to the
25 Humidor Transmission BESS. The 15300.2(a) Location exception nullifies
26 Regional Planning’s claim that the Humidor Transmission BESS qualifies for any
27 Categorical Exemption.

28 b) The Cumulative Impact exception set forth in Section 15300.2(b) establishes that

1 all Categorical Exemptions are inapplicable when the cumulative impact of
2 successive projects of the same type in the same place over time is significant. The
3 record demonstrates that multiple large BESS facilities are slated for proposed
4 development in the vicinity of the Vincent substation in Acton (including the
5 Humidor, Flea Flicker, Meathai, and Angeleno BESS) and that this will result in
6 the construction of more than 2,000 MW of deflagration-prone battery storage
7 facilities in a concentrated area of Acton within a VHFHSZ. The Board recognized
8 the impropriety of the high concentration of BESS facilities that are proposed in
9 Acton in the Motion it adopted on June 6, 2023. All of this demonstrates that the
10 cumulative impacts of all the proposed successive BESS projects in Acton are
11 significant and it nullifies any claim that the Humidor Transmission BESS
12 qualifies for any Categorical Exemption.

13 c) The Significant Effect exception set forth in 15300.2(c) establishes that “a
14 categorical exemption shall not be used for an activity where there is a reasonable
15 possibility that the activity will have a significant effect on the environment due to
16 unusual circumstances.” The area where the Humidor Transmission BESS is
17 proposed has the unusual circumstance of being designated as a VHFHSZ;
18 therefore, the deflagration-prone batteries that will be installed present a
19 reasonable possibility that the Humidor Transmission BESS will have a significant
20 wildfire effect on the environment. This exception nullifies County’s claim that
21 the Humidor Transmission BESS qualifies for any Categorical Exemption.

22 73. The record demonstrates that the Hecate Transmission Line does not meet the
23 eligibility criteria for the CEQA exemptions that the Board asserted pursuant to Sections 15301,
24 15303, 15304, and 15311 of the CEQA Guidelines when it adopted the finding that the Hecate
25 Transmission Line Franchise Ordinance is exempt from CEQA. Accordingly, the Board violated
26 CEQA when it found that the Hecate Transmission Line Franchise Ordinance was exempt from
27 CEQA based on these exemptions:

28 a) Section 15301 exemptions only apply to the “operation, repair, maintenance,

1 permitting, leasing, licensing, or minor alteration of *existing* public or private
2 structures” (emphasis added). The Hecate Transmission Franchise Ordinance
3 explicitly approves the construction, operation, and maintenance of *entirely new*
4 transmission line structures both above ground and below ground. The Hecate
5 Transmission Franchise Ordinance does not qualify for a CEQA exemption under
6 Section 15301.

7 b) Section 15303 exemptions only apply to the “construction and location of limited
8 numbers of new, small facilities or structures” and CEQA restricts the eligibility
9 of electrical lines for this exemption to only those lines which serve a single family
10 residence or a small multi-family residence or a small commercial enterprise (all
11 of which involve distribution service, not transmission service). The Hecate
12 Transmission Franchise Ordinance does not approve the construction of a minor
13 distribution line extension to serve small-scale residential or commercial
14 development; to the contrary, it approves the construction of a new high-voltage
15 transmission line that will serve the entire California transmission grid. The Hecate
16 Transmission Franchise Ordinance does not qualify for a CEQA exemption under
17 Section 15303.

18 c) Section 15304 exemptions only apply to “minor public or private alterations in the
19 condition of land, water, and/or vegetation” and it describes “minor temporary use
20 of land having negligible or no permanent effects on the environment”. The Hecate
21 Transmission Franchise Ordinance does not approve merely minor alterations of
22 land or minor temporary uses of land; to the contrary, it approves the construction
23 of new, extensive, large, and permanent high voltage transmission facilities both
24 above ground and below ground. The Hecate Transmission Franchise Ordinance
25 does not qualify for a CEQA exemption under Section 15304.

26 d) Section 15311 exemptions only apply to “construction or placement of minor
27 structures accessory to (appurtenant to) existing commercial, industrial, or
28 institutional facilities”. The Hecate Transmission Franchise Ordinance does not

1 approve the addition of *minor* structures that are *accessory* to an existing
2 development; to the contrary, it approves the construction of *major* new
3 transmission line infrastructure that is accessory to currently *nonexistent*, proposed
4 Transmission BESS facilities. The Hecate Transmission Franchise Ordinance
5 does not qualify for a CEQA exemption under Section 153011.

6 74. CEQA also requires the County and Board to address the “whole of an action”
7 when considering whether a project has a potential for resulting in either a direct physical change
8 in the environment, or a reasonably foreseeable indirect physical change in the environment
9 (CEQA Guidelines Sections 15003(h) and 15378(a)); CEQA does not permit lead agencies to
10 segment a project and find each segment to be individually exempt (*San Joaquin Raptor/Wildlife*
11 *Rescue Center v. County of Stanislaus* (1994) 27 Cal.App. 4th 713). The record demonstrates that
12 County and the Board failed to meet these CEQA requirements by addressing the “whole” Hecate
13 Transmission Project because County impermissibly segmented the Hecate Transmission BESS
14 facilities from the Hecate Transmission Line and the Hecate Transmission Franchise Ordinance.
15 Then, Regional Planning ministerially approved one of three Transmission BESS facilities
16 proposed by Hecate by claiming (improperly) that it was ministerially and categorically exempt
17 from CEQA while contemporaneously, the Board of Supervisors adopted a finding that the Hecate
18 Transmission Franchise Ordinance is categorically exempt from CEQA and approved a
19 resolution of intention to adopt the Franchise Ordinance and permit Hecate to construct, maintain,
20 and operate a new 230 kV Transmission Line. Once the Hecate Transmission Franchise is granted,
21 Hecate will proceed to obtain ministerial building permits to construct the transmission line. The
22 record shows that the Hecate Transmission BESS, the Hecate Transmission Line, and the Hecate
23 Transmission Franchise Ordinance are completely interdependent and neither have “independent
24 utility”; therefore, the County violated CEQA when it segmented these three components of the
25 Hecate Transmission Project and determined that each can proceed without environmental
26 review.

27 75. CEQA requires the County to prepare an Environmental Impact Report (“EIR”) if
28 there is substantial evidence in light of the “whole record” that there is a fair argument that the

1 project may have a significant effect on the environment (CEQA Statute § 21080(d)). The record
2 demonstrates that, among other things, the Hecate Transmission BESS facilities pose a significant
3 wildfire risk to the Community of Acton. Additionally, the Hecate Transmission Line is a high-
4 voltage transmission facility that will be constructed near homes and therefore poses potentially
5 significant aesthetic, noise, air quality, and wildfire impacts (among other things). Furthermore,
6 the Hecate Transmission BESS facilities are not consistent with the zoning code (because they
7 are not allowed under the County Code) and they are not consistent with Land Use Goals and
8 Policies enumerated in the County's Antelope Valley Area Plan that were adopted to mitigate
9 environmental impacts. All of these are potentially significant impacts that must be evaluated
10 and mitigated; therefore, County is required to prepare an EIR for the "whole" Hecate
11 Transmission Project. Had the County and Board prepared an EIR, they would have been
12 obligated to consider alternatives and mitigation measures.

13 76. CEQA also requires the consideration of cumulative environmental impacts. The
14 County and Board failed to not only consider the cumulative impacts of the entire Hecate
15 Transmission Project, but also failed to consider the cumulative impact of all permitted and
16 proposed battery storage and transmission facilities in or near Acton.

17 **SECOND CAUSE OF ACTION**

18 **(Writ of Mandate and Writ of Administrative Mandamus for**

19 **Los Angeles County Code, Antelope Valley Area Plan, County General Plan, and State**

20 **Planning and Zoning Law Violations Against All Respondents,**

21 **and DOES 1-20, and ROES 1-20, inclusive)**

22 77. Petitioner re-alleges and incorporates by reference the preceding paragraphs in
23 their entirety, as though fully set forth herein.

24 78. Consistent with County Code Section 22.22.030, only those uses that are permitted
25 in the M-1 zone pursuant to a Site Plan Review are eligible for ministerial approval by the County.
26 Utility-scale, transmission grid-connected BESS uses like Hecate's Humidor Transmission BESS
27 are not allowed in the M-1 zone pursuant to a Site Plan Review; therefore, County violated the
28 County Code when it ministerially approved Hecate's Humidor Transmission BESS. The County

1 lacked authority and jurisdiction to approve the project. Because it failed to proceed in the manner
2 required by Section 22.22.030 of the County Code when it ministerially approved the Humidor
3 Transmission BESS, the County abused its discretion under § 1094.5(b) of the Code of Civil
4 Procedure.

5 79. Consistent with County Code Section 22.22.030(D), County is not permitted to
6 ministerially approve any use that is not allowed in the M-1 zone regardless of whether it is
7 deemed similar to a use that is permitted with a ministerial review. Therefore, County violated
8 Section 22.22.030(D) when it ministerially approved Hecate's Humidor Transmission BESS by
9 concluding that it was "similar" to an "Electrical Distribution Substation". The County lacked
10 authority and jurisdiction to approve the project. Because it failed to proceed in the manner
11 required by Section 22.22.030(D) of the County Code when it ministerially approved Hecate's
12 Humidor Transmission BESS, the County again abused its discretion under § 1094.5(b) of the
13 Code of Civil Procedure.

14 80. The Antelope Valley Area Plan establishes Land Use Goal LU 1 as "A land use
15 pattern that maintains and enhances the rural character of the unincorporated Antelope Valley"
16 and it establishes Land Policy LU 1.4 to "Ensure that there are appropriate lands for commercial
17 and industrial services throughout the unincorporated Antelope Valley sufficient to serve the daily
18 needs of rural residents and to provide local employment opportunities". The Hecate
19 Transmission Project does not conform to these land use provisions of the Antelope Valley Area
20 Plan. For instance, it is not consistent with Goal LU1 because it neither maintains nor enhances
21 the rural character of Acton; to the contrary, it will result in a huge industrial development in the
22 bottom of a valley that will look like a densely packed collection of large shipping containers and
23 will be fully visible from all surrounding residences. Equally important, the Hecate Transmission
24 Project actually threatens the rural character of Acton because it poses a very real and very
25 significant wildfire risk. Furthermore, its location at the northeast corner of Acton is particularly
26 dangerous because that is the direction from which dry, high winds in Acton originate during "fire
27 weather" conditions (also known as "Santa Ana" wind events); if a battery deflagration were to
28 occur at the Humidor Transmission BESS during a "Santa Ana" wind event, it would quickly

1 escalate into a conflagration that would engulf the community. The Hecate Transmission Project
2 is also inconsistent with Policy LU 1.4 because it does not serve any needs of any rural residents:
3 it does not provide electrical distribution services to any rural residents and it does not provide
4 emergency power to the Community of Acton during SCE power shutoff events. It also does not
5 provide any local employment opportunities because it will operate autonomously. Therefore,
6 County's approval of the Hecate Transmission BESS was contrary to the Land Use Goals and
7 Policies established by the Antelope Valley Area Plan.

8 81. The Antelope Valley Area Plan Land Use Element further asserts that rural town
9 areas designated for industrial use were established to acknowledge existing industrial uses or
10 identify appropriate locations for future industrial uses to serve local residents (page LU-7). The
11 site where the Humidor Transmission BESS is proposed is in Acton's Rural Town Area and has
12 a "Light Industrial" land use designation; it is currently used for a "paint ball" facility that serves
13 the community, offers local employment opportunities, and thus comports with the purpose for
14 which the underlying land use designation was established. In contrast, the Humidor
15 Transmission Project does not serve local residents and, worse yet, it actually eliminates an
16 existing use that does serve local residents. Equally important, the proposed Hecate Transmission
17 project actually *endangers* local residents by substantially increasing community wildfire risks;
18 therefore, it is the complete antithesis of the "local serving" purpose of the land use designation
19 that underlies the site. The Hecate Transmission BESS is not in any way compatible with the
20 intent of the "Light Industrial" land use that is established on the project site by the Antelope
21 Valley Area Plan; therefore, County's approval of the Hecate Transmission BESS is contrary to
22 the Antelope Valley Area Plan's land use designation.

23 82. The Antelope Valley Area Plan establishes "Accountability" as a core value of the
24 Plan, and as part of the Plan's "Accountability" program, the Board of Supervisors committed
25 that "Land use decisions will be made to benefit the needs of the community as a whole and not
26 individual interests". Neither the Transmission BESS components nor the Transmission Line
27 components of the Hecate Transmission Project benefit the needs of the community in any way,
28 and they do not comport with the "Accountability" core value of the Antelope Valley Area Plan.

1 83. Consistent with County Code Section 22.02.050, a land use may only be
2 authorized on a parcel of land if: it conforms to the goals and policies of the applicable Area Plan,
3 it is allowed by zoning, and it is deemed to be compatible with the general intended uses of the
4 land use designation established by the applicable Area Plan. The Humidor Transmission Project
5 does not conform to the goals and policies of the Antelope Valley Area Plan, it is not allowed by
6 zoning, and it is not compatible with the general intended land use of the land use designation
7 established by the Antelope Valley Area Plan. Therefore, County violated County Code Section
8 22.02.050 when it ministerially approved Hecate's Humidor Transmission BESS. Because it
9 proceeded in a manner that was inconsistent with the Section 22.02.050 of the County Code when
10 it ministerially approved the Hecate Transmission BESS, the County again abused its discretion
11 under § 1094.5(b) of the Code of Civil Procedure.

12 84. The County General Plan adopted in 2015 establishes as a "Guiding Principal" for
13 "equitable communities" that communities should not be overburdened by nuisance and negative
14 environmental factors (page 19). *There is no question* that the three Hecate Transmission BESS
15 facilities slated for development in east Acton (which are collectively expected to exceed 1,000
16 MW) along with other large non-Hecate BESS facilities proposed for development in the same
17 area of Acton (such as the Angeleno Project that will exceed 1,150 MW) will substantially
18 overburden the Community of Acton with extensive and substantial negative environmental
19 factors including, but not limited to, conflagration risk. These negative environmental factors are
20 magnified and enhanced by Acton's designation as a Very High Fire Hazard Severity Zone.
21 County's ministerial approval of the first of three Hecate Transmission BESS facilities without
22 regard for any of its negative environmental impacts on the Community of Acton and without
23 consideration of all the cumulative negative environmental impacts that will result from all the
24 subsequent Hecate and non-Hecate Transmission BESS facilities proposed for development in
25 Acton is utterly contrary to the County General Plan and its fundamental Guiding Principal that
26 communities are not to be overburdened by negative environmental factors.

27 85. The Hecate Transmission Project violates State Planning and Zoning Laws. The
28 rule of general plan consistency is that the project must at least be compatible with the objectives

1 and policies of the general plan. (*Naraghi Lakes Neighborhood Preservation Assn. v. City of*
2 *Modesto* (2016) 1 Cal.App.5th 9, 17.) As explained above, the Hecate Transmission Project is not
3 compatible with the objectives and policies of the County General Plan and the Antelope Valley
4 Area Plan.

5 **THIRD CAUSE OF ACTION**
6 **(Declaratory Relief Against All Respondents, and**
7 **DOES 1-20. and ROES 1-20 inclusive)**

8 86. Petitioner re-alleges and incorporates by reference the preceding paragraphs in
9 their entirety, as though fully set forth herein.

10 87. An actual controversy has arisen and now exists between the Petitioner and
11 Respondents relative to their respective rights and duties, in that the Petitioner contends that
12 Respondents violated CEQA, the Los Angeles County Code, the Antelope Valley Area Plan, and
13 the County General Plan by ministerially approving the Humidor Transmission BESS, filing an
14 NOE based on an unlawful claim that the Humidor Transmission BESS is ministerially and
15 categorically exempt from CEQA, finding that the Hecate Transmission Franchise Ordinance is
16 exempt from CEQA, approving a Resolution stating the Board's intent to adopt the Franchise
17 Ordinance and grant Hecate permission to construct, maintain, and operate a new transmission
18 line, segmenting the Hecate Transmission Project components and finding that they are each
19 individually exempt from CEQA, and failing to prepare an EIR and consider all potential project
20 and cumulative environmental impacts, alternatives, and mitigation measures.

21 88. Petitioner is informed and believes that Respondents dispute these contentions that
22 they violated CEQA, the Los Angeles County Code, the Antelope Valley Area Plan, and the
23 County General Plan.

24 89. A judicial declaration is necessary and appropriate at this time.

25 90. Petitioner has no adequate or speedy remedy at law, other than that herein prayed,
26 by which the rights of Petitioner may be determined.

1 **FOURTH CAUSE OF ACTION**

2 **(Injunctive Relief Against All Respondents, Real parties in Interest,**
3 **and DOES and ROES 1-20 inclusive)**

4 91. Petitioner re-alleges and incorporates by reference the preceding paragraphs in
5 their entirety, as though fully set forth herein.

6 92. Petitioner and the Acton community are adversely affected or aggrieved by
7 Respondents' failure to comply with CEQA and the Los Angeles County Code and the Antelope
8 Valley Area Plan and the County General Plan. Petitioner's and the Acton community's interests
9 are directly and significantly harmed by Respondents continued piecemeal approval of the Hecate
10 Transmission Project. The injunctive relief requested will redress those injuries.

11 93. Petitioner has no adequate remedy at law. Respondents' actions result in
12 irreparable harm to the Petitioner and the Acton community. No monetary damages or other legal
13 remedy can adequately compensate Petitioner.

14 **PRAYER FOR RELIEF**

15 In each of the respects enumerated above, Respondents have violated their duties under
16 law, abused their discretion, failed to proceed in the manner required by law, and decided the
17 matters complained of without the support of substantial evidence. Accordingly, the approval of
18 the Humidor Transmission BESS must be set aside, and the NOE filed for the Humidor
19 Transmission BESS must be rescinded, the finding that the Hecate Transmission Line Franchise
20 Ordinance is exempt from CEQA must be revoked, further approvals must be paused until CEQA
21 is complied with, and an EIR must be prepared.

22 **WHEREFORE**, Petitioner prays for relief as follows:

- 23 1. For an alternative and peremptory writ, commanding Respondents:
- 24 a) To set aside and vacate their approval of the Humidor Transmission BESS and the
25 NOE filed for the Humidor Transmission BESS;
- 26 b) To set aside and vacate any other findings and approvals for the Hecate
27 Transmission Project; and,
- 28 c) To prepare an EIR for the entire Hecate Transmission Project.

1 2. For a declaration that Respondents violated CEQA, the Los Angeles County Code,
2 the Antelope Valley Area Plan and the County General Plan in approving the Humidor
3 Transmission BESS;

4 3. For a preliminary and permanent injunction prohibiting and enjoining Respondents
5 and Real Parties in Interest from taking any action to approve or construct any portion of the
6 Hecate Transmission Project or to develop or alter the Project site in any way unless and until a
7 lawful approval is obtained from Respondents after the preparation and consideration of an
8 adequate EIR;

9 4. For the Court to retain jurisdiction over this matter until such time as Respondents
10 and Real Parties in Interest have fully complied with their respective duties under the Court's Writ
11 and injunction;

12 5. For such costs and attorneys' fees that Petitioner may be entitled to under the law,
13 including, but not limited to, California Code of Civil Procedure § 1021.5; and,

14 6. For such additional relief as the Court may deem just and proper.

15
16
17 DATED: September 12, 2023

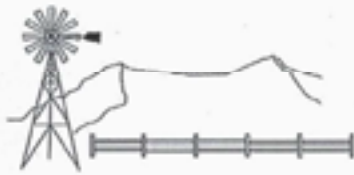
HANSON BRIDGETT LLP



18
19
20
21
22
23
24
25
26
27
28

ALENE M. TABER
Attorneys for Petitioner
SAVE OUR RURAL TOWN

EXHIBIT A



SAVE OUR RURAL TOWN

Executive Office, Board of Supervisors
Clerk of the Board
500 West Temple St., Room 383
Los Angeles, CA 90012
Attention: Claims

September 7, 2023

Subject: Notice of Intent to Commence a Lawsuit Challenging the County's Approval of, and Notice of Exemption Issued For, the Hecate Humidor Transmission Battery Electric Storage System and the Board of Supervisor's Separate Review of the Hecate Transmission Line and finding that the Hecate Transmission Line is Exempt from the California Environmental Quality Act.

Reference: RPPL2023000687 and RPAP2023000718.
Notice of Exemption (#2023178859 Filed Aug. 16, 2023).
Resolution Adopted by the Board on January 10, 2023 (Agenda Item 44).

To the Clerk of the Board;

You are hereby advised that Save Our Rural Town (SORT) intends to file a lawsuit in Los Angeles County Superior Court challenging the County's ministerial approval of the Hecate Humidor Transmission Battery Electric Storage System (BESS) in violation of the County Code and adopted County planning documents, the Notice of Exemption issued for the BESS in violation of the California Environmental Quality Act (CEQA), and the Board of Supervisor's separate review of the Hecate Transmission Line in violation of CEQA and the improper finding that same is exempt from CEQA. SORT challenges these actions on several grounds: that the BESS is not permitted under the County Code or the Antelope Valley Area Plan; that County failed to address the potentially significant environmental impacts of the BESS before approving it; that the BESS is not exempt from CEQA, and therefore the Notice of Exemption issued for the BESS was in violation of CEQA; that the County improperly bifurcated review and approval of the Hecate BESS facilities separately from the Hecate Transmission Facilities and processed them as two separate and independent projects in violation of CEQA; and that the Board improperly found that the Hecate Transmission BESS is exempt from CEQA based on specious claims of Categorical Exemptions.

This notice is issued in accordance with Public Resources Code section 21167.5. Pursuant to Public Resources Code section 21167.8, SORT requests that a settlement conference be scheduled by the County within 20 days after the petition is served. SORT is amenable to meeting with the County to discuss actions that would ameliorate SORT's concerns with the referenced project activities. To schedule the settlement conference, please contact me at (949) 278-8460 or by email at SORTActon@gmail.com.

Sincerely,


Jacqueline Ayer, Director
Save Our Rural Town

1 PROOF OF SERVICE BY MAIL

2
3 I, the undersigned, declare: I reside in the County of Los Angeles, State of California, am
4 over the age of 18 and not a party to the within action. My address is 2010 West Avenue K.
5 #701, Lancaster, CA 93536. I am readily familiar with the collection and processing of
6 correspondence for mailing.

7
8 On September 7, 2023, I served the following document: **Notice of Intent to Commence**
9 **a Lawsuit Challenging the County's Approval of, and Notice of Exemption Issued For, the**
10 **Hecate Humidor Transmission Battery Electric Storage System and the Board of**
11 **Supervisor's Separate Review of the Hecate Transmission Line and Finding that the**
12 **Hecate Transmission Line is Exempt from the California Environmental Quality Act** on
13 the interested parties by placing a true and correct copy thereof in an envelope addressed as
14 follows:

15 Executive Office, Board of Supervisors
16 Clerk of the Board
17 500 West Temple St., Room 383
18 Los Angeles, CA 90012
19 Attention: Claims
20

21 I declare under penalty of perjury under the Laws of the State of California that the
22 foregoing is true and correct.
23

24 Executed on September 7, 2023 at Acton, CA

25  _____
26

27 Aidan Vidic

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

PROOF OF SERVICE BY ELECTRONIC MAIL

I, the undersigned, declare: I reside in the County of Los Angeles, State of California and am over the age of 18. My electronic mail address is SORTActon@gmail.com.

On September 7, 2023, I served the following document: **Notice of Intent to Commence a Lawsuit Challenging the County’s Approval of, and Notice of Exemption Issued For, the Hecate Humidor Transmission Battery Electric Storage System and the Board of Supervisor’s Separate Review of the Hecate Transmission Line and Finding that the Hecate Transmission Line is Exempt from the California Environmental Quality Act** on the interested parties by sending electronic mail to:

Executive Office
500 West Temple St., Room 383
Los Angeles, CA 90012
ExecutiveOffice@bos.lacounty.gov

I declare under penalty of perjury under the Laws of the State of California that the foregoing is true and correct.

Executed on September 7, 2023 at Acton, CA



Jacqueline Ayer

VERIFICATION

STATE OF CALIFORNIA}
COUNTY OF LOS ANGELES}

I have read the foregoing **VERIFIED PETITION BY SAVE OUR RURAL TOWN FOR: (a) WRIT OF MANDATE [CODE CIV. PROC., § 1085 AND PUB. RES. CODE, §§ 21168.5 AND 21168.9]; (b) WRIT OF ADMINISTRATIVE MANDAMUS [CODE CIV. PROC., § 1094.5 AND PUB. RES. CODE, §§ 21168 AND 21168.9]; (c) DECLARATORY RELIEF; AND (d) INJUNCTIVE RELIEF** and know its contents.

I am Director of SAVE OUR RURAL TOWN, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.

The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

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

Executed on September 11, 2023, at Acton, California.

By

Jacqueline Ayer