

**For Immediate Release
July 13, 2015**

Placerville Historic Preservation League
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Suit Brought To Keep Historic El Dorado County Courthouse Open

Plans to close the 104 year old El Dorado County Courthouse and build a new \$90¹ million dollar, 88,000 square foot courthouse with six courtrooms, three stories, and a basement in the west end of Placerville near the county jail – plans long plagued by controversy since it was first proposed in a 1965 grand jury report – could be blocked thanks to a lawsuit filed in San Francisco late Friday by the Placerville Historic Preservation League. The petition for a writ of mandate, seeking to set aside the recently approved Environmental Impact Report for the courthouse project, argues that there was a failure to comply with the California Environmental Quality Act [CEQA] including a failure “to adequately, disclose, analyze and/or mitigate the Project’s economic impacts to the businesses in historic Placerville on Main Street that will lead to urban decay and blight.”



“The Project provides for the closure of the historic courthouse on Main Street in the City of Placerville,” the petition by attorney Donald B. Mooney states, adding, “At least 60 persons doing business on Main Street signed a petition opposing the Project and the closure of the courthouse on Main Street.” Other issues raised in the petition include adverse impacts on plant, animals and traffic, matters also covered in comments that were submitted during the EIR process by both the California Department of Transportation (Caltrans) and the California Department of Fish and Wildlife. [The petition is at the bottom.]

¹ . Official estimates have ranged from \$76,303,000 to \$89.9 million for just the building alone. The price tag is far higher when the cost of associated highway construction to facilitate this project is taken into account, an estimated bill ranging from \$47 to \$65 million, and counting. “But how many government projects ever get completed for less than what was budgeted if not far higher?,” said Kirk Smith, a member of the Preservation League. <http://dreyfussblackford.com/project.php?id=92&categoryID=11>

Many merchants and property owners in the Main Street historic district were angry early in the year to learn that the comment period for the EIR closed on December 1, 2014 with no public posting by the City or the County, something one city official later acknowledged at a council meeting was a mistake, that he knew about the 45 day comment period and should have forwarded the notice to the public by at least posting it on the city's website. At the same council meeting, the Mayor acknowledged that she did not know that the EIR included an option for continuing to use the old courthouse while building a smaller new courthouse.

More than 60 persons doing business on Main Street signed a petition in the belief that closing the old courthouse "would cause massive devastation to our local economy and irreparable harm to the historic character of Placerville, all but turning downtown into a ghost town." The petition, later filed with the Judicial Council in an effort to have the public comment period reopened to accommodate affected business and other public views who wanted their voices heard [the city council urged that the comment period not be reopened and it was not] states:

"We want to save our historic Main Street Court House for continued court house use and we urge the California Judicial Council to reopen the 45-day public comment period that expired on December 1, 2014 with virtually no public notice. <http://www.courts.ca.gov/facilities-eldorado.htm#tab3472>) The public comment period should be reopened to allow the public to address a number of overlooked issues under the California Environmental Quality Act [CEQA] including blight that would be created by closing this beautiful Placerville institution and building an extremely expensive new building that would cost more than \$89 million for just the building alone.

"While building a wastefully expensive new structure would benefit a number of politically connected special interests, closing our historic court house would cause massive devastation to our local economy and irreparable harm to the historic character of Placerville, all but turning downtown into a ghost town. Main Street businesses have a substantial dependency on courthouse traffic for their income -- easily ranging from 5% to 20% of income from both court visitors as well as employees. Retaining its continued use as court house will protect our local economy and enable Placerville to continue drawing visitors from all over the world.

"We, we the undersigned, urge state and local elected representatives to act as true representatives and do whatever is necessary to have the public comment period on the draft EIR report reopened as well as have the state examine ways keeping this historic treasure for court functions which should include such options as construction of an annex to the present building."

While the Judicial Council of California, the “lead agency” for the courthouse project, is a named respondent, others include the El Dorado County Board of Supervisors. Former State Senator John Briggs, father of former supervisor Ron Briggs, is one of the listed real parties in interest because of his ownership of property associated with the development of the courthouse project. The case was filed in the Superior Court in San Francisco since the Judicial Council of California is located there.

A 1965 El Dorado County Grand Jury report, contending that the building was not earthquake proof, called for demolishing the old courthouse and building new one at the Forni Road location. There was an immediate public outcry against the plan with angry demands to save the historic courthouse, overhaul it, and make it earthquake proof. There were more than a hundred articles and editorials in the local newspaper, issue after issue of the Mountain Democrat for more than a half a dozen years, extolling the virtue of saving this historic treasure that is a very crucial part of the city’s economy. Civic leaders succeeded in rebuilding this Main Street jewel and source of community pride for more than a century.

The project has long been riddled with claims of conflict of interest and political collusion. It was suspended at one point in 2013 because of a conflict of interest being that county Supervisor Ron Briggs was the son of one of the prime beneficiaries of this project, former state senator John Briggs. [See e.g. <http://www.courts.ca.gov/facilities-eldorado.htm> and <http://www.inedc.com/1-6300.html>.] After that Judicial Council inquiry was concluded, issues still continued to crop up.

On December 2nd of last year, the Board of Supervisors voted to accept an option from John Briggs to swap the just over five acres of land owned by the County near the project on Forni Road for a parcel owned by John Briggs. But critics point out that the swap was done without appraisals and that the two parcels obviously could not possibly be a fair exchange since the county’s parcel has a prime location with access to Forni Road while the Briggs’ property was landlocked, making it extremely difficult to obtain loans and develop his property. Given that there were reports the Briggs family was facing foreclosure, opponents of the land swap called it a bailout for political friends.

At the same time last year, Briggs listed the property with a large development company with one article detailing the pending property transfer before supervisors approved it. [See <http://www.bizjournals.com/sacramento/news/2014/11/12/land-near-future-el-dorado-courthouse-could-be.html>]

A sign at that prime intersection now advertises the Briggs project while tree clear cutting of the property is underway.



More recently, the husband of Supervisor Sue Novasel was found to have loaned John Briggs substantial sums for his project, something that was not on that candidate's financial disclosure forms until after she was elected. [<http://www.mtdemocrat.com/news/supervisor-novasel-answers-conflict-of-interest-questions/>] Opponents of the project have been quick to note that the brother of Board of Supervisor's chair Brian Veerkamp owns a construction company that has already done extensive road construction work near the court project and would be in line to bid for millions more in excavation work if this project goes forward.

"Besides the CEQA problems, this project has conflict of interest questions involving a current Supervisor, a former Supervisor and his Father and the husband of a current Supervisor," said Preservation League member Brian DeBerry, son of Fred DeBerry who was the elected county surveyor for more than 25 years, adding: "The conflict of interest issues needs to be investigated by the new Grand Jury. This project fails to pass the basic smell test, the stench should be hard to ignore."

"Local politicians publically have long said that the closure of our historic courthouse has been wholly up to the state, that the judicial council calls all the shots, but behind closed doors they have aggressively lobbied to push closing our courthouse and building a new complex that would cause economic devastation for the historic downtown district," said Kirk Smith, a member of the Preservation League and manager of family properties that include some on Main Street. Smith added, "What's bothered so many is that local politicians have been aggressively deceptive in defending the move, falsely saying the project was approved when

even the EIR process was still underway and raising outrageously reckless scare stories like repeatedly stating that the state was pushing to move our court to Rancho Cordova although no official in the Judicial Council office has ever heard that raised, some responding to the idea with laughter.”

The petition for mandate asks the court to vacate the EIR. It would necessarily require the government to redo their EIR or overhaul their plans. One of two options that had been considered was to keep the current courthouse and build a smaller new facility next to the jail.

There were 32 courthouses built in the grand golden age of courthouse construction when California was a mere fifty years old, and 22 of them are still being used as courthouses. <http://www.klutenewton.com/historic-sites/county-courts/county-list.htm> The old courthouses are still being used in Woodland and Auburn.

A joint “blue ribbon committee” was created by the City Council and Board of Supervisors to look at what to do with the old courthouse, but Smith said “That group has yet to meet and the proposal was never raised until late last year when the new courthouse project was long underway so who thinks that a group of citizens without funding for hiring experts could come up with and seek implementation of some new use before a new courthouse is built? Besides, the city appointed a blue ribbon committee a number of years ago to consider what to do with our historic city hall buildings and then wound up ignoring all of their recommendations and voted to instead sell those treasures. Why should local government be trusted to do things differently this time?”

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====The Petition Follows====

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

PLACERVILLE HISTORIC)
PRESERVATION LEAGUE)

Petitioners)

v.)

JUDICIAL COUNCIL OF CALIFORNIA;)
and, DOES 1 through 20;)

Respondents)

COUNTY OF EL DORADO AND EL)
DORADO COUNTY BOARD OF)
SUPERVISORS; JOHN BRIGGS;)
and DOES 21 through 100)

Real Parties in Interest)

Case No. _____

**VERIFIED PETITION FOR
WRIT OF MANDATE**

Petitioner Placerville Historic Preservation League alleges:

1. By this action, Petitioner PLACERVILLE HISTORIC PRESERVATION LEAGUE challenges Respondent JUDICIAL COUNCIL OF CALIFORNIA's June 10, 2015, certification of the Final Environmental Impact Report ("EIR") for the New Placerville Courthouse Project, the required findings under the California Environmental Quality Act ("CEQA"), Public Resources Code, section 21000 *et seq.*, and the approval of the New Placerville Courthouse Project ("Project").

2. Petitioner seeks a determination from this Court that Respondent's approval of the Project is invalid and void and that the EIR prepared for the Project fails to satisfy the requirements of CEQA, and the CEQA Guidelines, Title 14, California Code of Regulations, section 15000 *et seq.*

PARTIES

3. Petitioner Placerville Historic Preservation League is an unincorporated association and comprised of residents of the Project area located in El Dorado County. Petitioner and its members have a particular interest in the protection of El Dorado County's environment and are increasingly concerned about worsening environmental conditions that detrimentally affect their well-being and that of other residents and visitors to El Dorado County. Petitioner and its members have a direct and substantial beneficial interest in ensuring that Respondent complies with laws relating to environmental protection. Petitioner and its members are adversely affected by Respondent's failure to comply with CEQA in approving the Project. Placerville Historic Preservation League was formed after Respondent's June 10, 2015 approval of the Project. (See Public Resources Code § 21177(c).) Members of Placerville Historic Preservation League timely commented on the EIR.

4. Respondent Judicial Council of California is a subdivision of the State of California. Respondent Judicial Council of California is the CEQA "lead agency" for the Project. As lead agency for the Project, Judicial Council of California is responsible for preparation of an environmental document that describes the Project and its impacts, and, if necessary evaluates mitigation measures and/or alternatives to lessen or avoid any significant environmental impacts.

5. Real Party in Interest El Dorado County is a political subdivision of the State of California and a body corporate and politic exercising local government power. El Dorado County is a CEQA "responsible agency" for the Project.

6. Respondent El Dorado County Board of Supervisors is a legislative body duly authorized under the California Constitution and the laws of the State of California to act on behalf of the County of El Dorado. Respondent El Dorado County Board of Supervisors are responsible for regulating and controlling land use within

the County including, but not limited to, implementing and complying with the provisions of CEQA and the CEQA Guidelines, 14 California Code of Regulations, title 14, section 15000 *et seq.* (the “CEQA Guidelines”).

7. Real Party in Interest John Briggs is the owner of the real property that the County of El Dorado has an option to purchase. A portion of the Project will be located on the property owned by Mr. Briggs.

8. Petitioner is unaware of the true names and capacities of Respondents identified as Does 1-20. Petitioner is informed and believes, and on that basis alleges, that Respondents Does 1-20, inclusive, are individuals, entities or agencies with material interests affected by the Project with respect to the Project or by the Judicial Council of California’s actions with respect to the Project. When the true identities and capacities of these Respondents have been determined, Petitioner will, with leave of Court if necessary, amend this Petition to insert such identities and capacities.

9. Petitioner is unaware of the true names and capacities of Real Parties in Interest identified as Does 21-100. Petitioner is informed and believes, and on that basis allege, that Respondents Does 21-100, inclusive, are individuals, entities or agencies with material interests affected by the Project or by the Judicial Council of California’s actions with respect to the Project. When the true identities and capacities of these Real Parties in Interest have been determined, Petitioner will, with leave of Court if necessary, amend this Petition to insert such identities and capacities.

BACKGROUND FACTS

A. THE PROJECT

10. The Project site is located off Forni Road in the City of Placerville on undeveloped property adjacent to the existing El Dorado County Jail. The assessor parcel numbers are 325-300-002 and 325-300-100.

11. The Project includes the acquisition of property, along with the construction and operation of a new courthouse. The Project will consolidate the courthouse functions currently in the Main Street Courthouse and the court functions in Building C of the County Administrative Complex.

12. The Project includes:

a. The County of El Dorado exchanging approximately five acres of land on APN 325-300-32 for approximately five acres of property on APN 325-300-002 by exercising an option to purchase a portion

of APN 325-300-002;

b. The Judicial Council of California will acquire approximately eight acres of undeveloped land from the County of El Dorado. The Project consists of two parcels: APN 325-300-002 and 325-300-100.

c. The Judicial Council of California will construct and operate a 88,000 square foot courthouse with six courtrooms, three stories, and a basement.

d. The Project's on-site improvements also include a parking lot and an on-site drainage system;

e. The Project's off-site improvements include the extension of the on-site sewer and water lines.

13. The Project provides for the closure of the historic courthouse on Main Street in the City of Placerville. At least 60 persons doing business on Main Street signed a petition opposing the Project and the closure of the courthouse on Main Street. Staff and visitors to the courthouse account for 5% to 20% of their respective businesses. This may result in businesses closing as a result of the closure of the historic courthouse.

14. On April 23, 2012, the Judicial Council of California circulated a Notice of Preparation for the EIR. On May 15, 2012, the Judicial Council held a public scoping meeting.

15. In October 2014, the Judicial Council of Sacramento released a Draft EIR for public review and comment.

16. In May 2015, the Judicial Council of California released the Final EIR for the Project.

17. On June 10, 2015, the Judicial Council of California certified the Final EIR for the New Placerville Courthouse Project. In approving the Project, the Judicial Council of Sacramento adopted a mitigation reporting plan; a statement of overriding consideration; and findings pursuant to CEQA.

18. On June 11, 2015, the Judicial Council of California filed a Notice of Determination with the Office of Planning and Research's State Clearinghouse.

JURISDICTION AND VENUE

19. This Court has jurisdiction over the matters alleged in this Petition pursuant to Code of Civil Procedure section 1085, and Public Resources Code section 21168.5. In the alternative, this Court

has jurisdiction pursuant to Code of Civil Procedure section 1094.5 and Public Resources Code section 21168.

20. Pursuant to Code of Civil Procedure section 394(a), venue is proper in this Court because the Judicial Council of California is located within the County of San Francisco.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES
AND INADEQUACY OF REMEDY**

21. Petitioner has performed any and all conditions precedent to filing the instant action and has exhausted any and all available administrative remedies to the extent required by law.

22. Petitioner has complied with the requirements of Public Resources Code, section 21167.5 by mailing written notice of this action to the Respondent. A copy of this written notice and proof of service are attached as Exhibit A to this Petition for Writ of Mandate.

23. Petitioner has complied with Public Resources Code section 21167.6 by concurrently filing a request concerning preparation of the record of administrative proceedings relating to this action.

24. Petitioner has no plain, speedy or adequate remedy in the course of ordinary law unless this Court grants the requested writ of mandate to require respondents to set aside their approval of the Project and certification of the EIR. In the absence of such remedies, Respondent's approval will remain in effect in violation of State law.

25. This action has been brought within 30 days of the Judicial Council of California filing of the Notice of Determination as required by Public Resources Code section 21167(c).

STANDING

26. Petitioner has standing to assert the claims raised in this Petition because Petitioner's and its respective members' environmental interests are directly and adversely affected by the Respondent's approval of the Project.

CAUSE OF ACTION

(Violation of the California Environmental Quality Act)

27. Petitioner realleges and incorporate by reference Paragraphs 1 through 26, inclusive, of this Petition, as if fully set forth below.

28. Respondent committed a prejudicial abuse of discretion and failed to proceed in a manner required by law by relying on a EIR that fails to meet the requirements of CEQA for disclosure, analysis, and/or mitigation of significant project impacts.

29. Respondent's Findings of Fact and Statement of Overriding Considerations violate the requirements of the CEQA Guidelines. The Findings fail to identify the changes or alterations that are required to avoid or substantially lessen the project's significant environmental effects (Guidelines § 15091(a)(1); the Findings and Statement of Overriding Considerations are not supported by substantial evidence (Guidelines, § 15091(b)).

30. The EIR fails to comply with the requirements of CEQA in that it fails to adequately disclose, analyze and/or mitigate the Project's environmental impacts and resulting from the Project as required by law, and its conclusions regarding the Project's environmental impacts are not supported by substantial evidence.

a. The EIR failed to adequately, disclose, analyze and/or mitigate the Project's economic impacts to the businesses in historic Placerville on Main Street that will lead to urban decay and blight.

b. The EIR failed to adequately disclose, analyze and/or mitigate the Project's impacts to biological resources. For example, the EIR failed to contain species-specific, protocol-level or wetlands surveys of the Project site. Additionally, the EIR inappropriately defers mitigation of impacts to biological resources by relying upon future surveys to identify impacts and consultation with regulatory agencies for mitigation. The EIR also failed to adequately discuss, analyze and mitigate the potential impact to bird species protected under the Migratory Bird Treaty Act ("MBTA"), and Fish and Game Code sections 3503 and 3503.5.

c. The EIR fails to adequately discuss, analyze and mitigate impacts to rare plants. Additionally, the EIR inappropriately defers mitigation of impacts to rare plants by relying upon future surveys to identify impacts and consultation with regulatory agencies for mitigation

d. The EIR failed to adequately disclose, analyze and/or mitigate the Project's impacts to traffic and circulation. For example, the analysis contains significant volume imbalances between intersections. Additionally, the EIR contains discrepancies regarding trip distribution patterns and "plus project" peak figures.

31. The EIR failed to provide adequate responses to comments on the Draft EIR. (See CEQA Guidelines, § 15088.)

32. Based upon each of the foregoing reasons, the EIR is legally defective under CEQA. Respondent prejudicially abused its discretion in violation of CEQA in approving the Project. As such, the Court should issue a writ of mandate directing Respondent to set aside the certification of the EIR and approval of the Project.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray for judgment as follows:

1. That this Court issue a peremptory writ of mandate ordering Respondent to:
 - (a) vacate and set aside certification of the Final EIR on the grounds that it violates the California Environmental Quality Act, Public Resources Code section 21000 *et seq.*
 - (b) vacate and set aside its June 10, 2015 approval of the Project;
 - (c) suspend approval of any and all contracts for construction of the Project until the Respondent complies with CEQA;
 - (d) suspend all activity that could result in any change or alteration to the physical environment until Respondent has taken such actions as may be necessary to bring their determination, findings or decision regarding the Project into compliance with CEQA;
 2. For Petitioner's costs associated with this action;
 3. For an award of reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5;
- and

