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 7
 8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF LOS ANGELES

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11	FRANK MANCUSO, SR., an)	CASE NO. <u>BS 040197</u>
12	individual,)	
13	Petitioner,)	<u>FIRST AMENDED PETITION FOR</u>
14	v.)	<u>ALTERNATIVE WRIT OF MANDATE</u>
15	CALIFORNIA STATE COASTAL)	[Code Civ. Proc. § 1085]
16	CONSERVANCY, an agency of the)	
17	State of California, CALIFORNIA)	
18	STATE COASTAL CONSERVANCY BOARD,)	
19	the governing body of the)	
20	California State Coastal)	
21	Conservancy, CALIFORNIA)	
22	DEPARTMENT OF GENERAL SERVICES,)	
23	an agency of the State of)	
24	California, <u>the MOUNTAINS</u>)	
25	<u>RECREATION AND CONSERVATION</u>)	
26	<u>AUTHORITY, an agency of the</u>)	
27	<u>State of California, and DOES 1</u>)	
28	through 100,)	
	Respondents.)	

23 TO THE HONORABLE JUDGE OF THE SUPERIOR COURT:

24 Petitioner Frank Mancuso, Sr. petitions this Court for an
 25 alternative a peremptory writ of mandate pursuant to section 1085
 26 of the Code of Civil Procedure to vacate the California Coastal
 27 Conservancy's ("Conservancy") May 16, 1996 action with respect to
 28 Conservancy File No. 88-46 (the "May 16 Action") for the

1 Conservancy's failure to provide due process and statutorily
2 required notice and opportunity to be heard to Petitioner and
3 other affected members of the public, and for failure to comply
4 with the California Environmental Quality Act. Petitioner also
5 seeks a peremptory writ of mandate to set aside a 20-year property
6 management agreement which the Conservancy has entered into with
7 the Mountains Recreation and Conservation Authority. Petitioner,
8 by this verified petition, alleges as follows:

9 INTRODUCTION

10 1. This action is necessitated by the Conservancy's failure
11 to provide Petitioner and other affected members of the public
12 with notice and an opportunity to be heard regarding specific
13 actions authorized by the Conservancy Board ("Board") ~~on May 16,~~
14 ~~1996 as part of~~ with respect to the Conservancy's ongoing efforts
15 to open and develop an easement for general public use to an area
16 commonly known as Escondido Beach. The easement traverses certain
17 real property and various physical improvements which are owned by
18 Petitioner and which are utilized as his personal residence.
19 Specifically, the Conservancy failed to provide Petitioner or
20 other affected members of the public with advance notice of or an
21 opportunity to be heard regarding either a 20-year property
22 management agreement approved between the Conservancy and the
23 Mountains Recreation and Conservation Authority or a May 16, 1996,
24 hearing regarding the easement which led to an agreement between
25 the Conservancy and a general contractor to conduct a construction
26 feasibility study regarding the easement. The Conservancy's
27 failure to provide notice and opportunity to be heard violated the
28 well-established due process rights of Petitioner and other

1 question which burdens Petitioner's Residence. The Conservancy is
2 currently considering opening and developing that easement.

3 6. Respondent the California State Coastal Conservancy
4 Board (the "Board") is the governing body of the Conservancy,
5 which is charged with decision-making authority regarding the
6 easement in question.

7 7. Respondent the California State Department of General
8 Services ("Department of General Services") is an agency of the
9 State of California.

10 8. Respondent the Mountains Recreation and Conservation
11 Authority ("MRCA") is an agency of the State of California.

12 & 9. The true names and capacities of DOES 1 through 100,
13 inclusive, whether individual, corporate, associate or otherwise,
14 are unknown to Petitioner, who names these DOES by said fictitious
15 names and who will seek leave of court to amend this Petition to
16 show their true names and capacities when the same have been
17 ascertained.

18 FACTUAL ALLEGATIONS

19 The Easement

20 9 10. The Conservancy currently holds title to an
21 easement which is commonly known as the "Chiate/Wildman easement"
22 (hereinafter the "Easement") which traverses a portion of
23 Petitioner's property. The Easement also burdens a second
24 residential property adjacent to petitioner's.

25 ~~10~~ 11. Although no easement existed across Petitioner's
26 Residence historically, such Easement was extracted at the
27 insistence of the California Coastal Commission ("Commission") in
28 1978 as a condition for granting permits to develop Petitioner's

1 Residence and the single family home on the property adjacent to
2 Petitioner's Residence. Such requirement was imposed prior to the
3 United States Supreme Court's 1987 holding in Nollan v. California
4 Coastal Commission, 483 U.S. 825, 107 S. Ct. 3141 (1987), that
5 involuntary extractions (akin to the Commission's extraction of
6 the Easement in question) by governmental agencies as a condition
7 of issuing development permits constitute "takings" in the absence
8 of an essential nexus.

9 ~~11~~ 12. The Easement is 10 feet in width and commences at
10 Pacific Coast Highway. The Easement is currently unimproved, not
11 open to the public, and impassable due to severe natural
12 landforms, dense natural vegetation, and private improvements.
13 Upon entering the property which comprises Petitioner's Residence,
14 the Easement overlays a portion of Petitioner's private driveway,
15 passes through Petitioner's front and side yard improvements
16 adjacent to his house, through portions of Petitioner's rear yard,
17 and then drops steeply down to Escondido Beach, which is
18 approximately 130 feet below Pacific Coast Highway.

19 Conservancy's Failure to Provide Petitioner with
20 Notice or an Opportunity to Be Heard

21 ~~12~~ 13. In order to open the Easement, the Conservancy
22 must, among other things, determine that the benefits of public
23 use are not outweighed by the costs of development and
24 maintenance. Public Resources Code Section 31404. On May 16,
25 1996 the Board agendized a proposed action regarding the scope,
26 budget and authority for a study of opening and developing the
27 Easement.

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1 ~~13~~ 14. Despite the fact that Petitioner owns property over
2 which a portion of the Easement runs, the Conservancy failed to
3 provide Petitioner with notice of the May 16, 1996 Action and an
4 opportunity to be heard regarding the appropriate scope of the
5 proposed study.

6 ~~14~~ 15. On information and belief, Petitioner's neighbors
7 and other area residents who also would be adversely affected by
8 the development of the Easement were not provided with notice or
9 an opportunity to be heard regarding the proposed May 16 Action.

10 ~~15~~ 16. As a result of the lack of notice, the Board failed
11 to obtain required property owner and public input, and improperly
12 excluded from the study consideration of all of the issues which
13 must be evaluated in connection with determining the actual cost
14 of developing and maintaining the Easement for public use so as to
15 enable a fully informed determination to be made pursuant to
16 Section 31404.

17 ~~16~~ 17. Specifically, in its May 16, 1996 Action, the Board
18 improperly limited the scope of the study of the Easement to
19 construction issues only. ~~(See, Exhibit B at pages 6, 7 and 11 to~~
20 ~~Administrative Record.)~~ In addition, the Board limited the budget
21 for the study to an amount sufficient to examine construction
22 issues only, which as a practical matter ensures that the issues
23 which concern Petitioner and other members of the public will not
24 be analyzed.

25 ~~(See, Exhibit B at pages 6 and 7 to Administrative Record.)~~
26 ~~17~~ 18. Opening the Easement to public use will require, among
27 other things, the demolition of existing improvements which
28 comprise portions of Petitioner's Residence, dramatic alteration

1 of existing landforms, and the construction of substantial
 2 improvements to make the Easement usable. Furthermore, and on
 3 information and belief, as demonstrated by the opening of similar
 4 access points along Pacific Coast Highway, opening the Easement
 5 may attract hundreds and perhaps thousands of visitors on a daily
 6 basis to a location which is not provided with even the most basic
 7 infrastructure and services to serve the general public, which in
 8 turn will result in life-safety hazards, unmitigatable
 9 environmental impacts and adverse effects to property owned by
 10 Petitioner and neighboring residents. All of such issues should
 11 have been, but were not, included as items to be addressed in the
 12 study authorized by May 16, 1996 Action.

13 ~~18~~ 19. As a result of the Conservancy's failure to provide
 14 notice and opportunity to be heard, Petitioner and other members
 15 of the public were prevented from presenting the following
 16 specific issues to the Board for inclusion in the authorized scope
 17 of the study:

18 (a) the Conservancy's ability to mitigate, and the cost
 19 of mitigating, traffic hazards resulting from the opening of the
 20 Easement entrance, which is situated along a high speed blind-
 21 curve of Pacific Coast Highway;

22 (b) the Conservancy's ability to provide, and the cost
 23 of providing, sufficient off-street parking to serve the Easement;

24 (c) the Conservancy's ability to provide, and the cost
 25 of providing, life-safety facilities, such as lifeguards,
 26 emergency communication, and rescue and evacuation services to the
 27 remote location of the Easement;

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1 (d) the Conservancy's ability to provide, and the cost
2 of providing, sanitary facilities, such as toilets and changing
3 rooms to the remote location of the Easement;

4 (e) the Conservancy's ability to provide, and the cost
5 of providing, police services to the remote location of the
6 Easement;

7 (f) the Conservancy's ability to mitigate, and the
8 costs of mitigating, environmental impacts resulting from the
9 intensification of the use of the beach in an area without
10 sufficient infrastructure to support general recreational use.

11 (g) the Conservancy's ability to mitigate, and the
12 costs of mitigating, environmental impacts resulting from the
13 disruption of coastal bluffs, sensitive plant and animal species,
14 the protected Monarch Butterfly habitat, and other issues required
15 to be addressed and mitigated to comply with CEQA and the Coastal
16 Act;

17 (h) the Conservancy's ability to mitigate, and the
18 costs of mitigating, erosion and geologic hazards resulting from
19 development of the Easement and its use by the public;

20 (i) the costs of maintaining the Easement subsequent to
21 development;

22 (j) the ability to develop the Easement, and the cost
23 of developing the Easement in a manner which will not infringe
24 upon the privacy of Petitioner's Residence and adjoining
25 residential property; and

26 (k) reasonable arrangements for the Conservancy's
27 vendors and contractors to enter upon Petitioner's Residence to

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1 conduct studies of the Easement without the disruption of
2 Petitioner's privacy and quiet enjoyment of his residence.

3 ~~19~~ 20. Unless the issues identified in Paragraphs ~~17~~ 18
4 and ~~18~~ 19 above are considered as part of the study, the
5 Conservancy will not be provided with any analysis of all of the
6 costs associated with developing and maintaining the Easement and
7 hence cannot fully comply with its responsibilities under Section
8 31404 of the Public Resources Code.

9 ~~20~~ 21. On May 14, 1996, Petitioner became apprised of the
10 impending Conservancy meeting and the proposed action item
11 regarding the Easement study. Petitioner's counsel thereupon
12 wrote and called the Conservancy to request that the Conservancy
13 continue the matter until after Petitioner and other members of
14 the public were provided with due notice and opportunity to be
15 heard. ~~(See, Exhibit C at pages 16 and 17 to Administrative~~
16 ~~Record.)~~ This reasonable request was rejected by the Conservancy
17 staff; instead the Board acted and authorized the study as
18 described in Paragraph ~~16,~~ 17, above.

19 ~~(See, Exhibit D at page 18 to Administrative Record.)~~

20 ~~21~~ 22. Upon becoming informed of that the matter had not been
21 continued as requested, Petitioner requested that the Conservancy
22 stop all work being undertaken pursuant to the May 16 Action until
23 after a duly noticed public hearing had taken place.

24 ~~(See, Exhibit E at page 21 to Administrative Record.)~~

25 ~~22~~ 23. Conservancy staff summarily and improperly denied
26 Petitioner's request without presenting the same to the Board.
27 Upon becoming aware of staff's ultra vires denial of his request,
28 Petitioner objected and demanded that the Board be presented with

1 Petitioner's request for notice and opportunity to be heard.
 2 Despite Petitioner's demand, staff failed and refused to present
 3 such request to the Board (~~See, Exhibit I at page 29 to~~
 4 ~~Administrative Record.~~).

5 24. Upon information and belief, the Conservancy has entered
 6 into a 20-year property management agreement with the MRCA
 7 pursuant to which the MRCA will operate and maintain the Easement
 8 after it has been constructed. Petitioner was never provided with
 9 advance notice of the 20-year property management agreement or an
 10 opportunity to be heard in connection therewith.

11 FIRST CAUSE OF ACTION - WRIT OF MANDATE

12 VIOLATION OF DUE PROCESS

13 (Against the Conservancy and the Board)

14 (Cal. Civ. Proc. Code. § 1085)

15 ~~23~~ 25. Petitioner realleges and incorporates herein by
 16 this reference as though the same were fully set forth herein each
 17 and every allegation set forth above in Paragraphs 1 through ~~22~~
 18 24, inclusive, of this Petition.

19 ~~24~~ 26. Petitioner has exhausted all administrative
 20 remedies available to him, as alleged in Paragraphs ~~20~~ 21 through
 21 ~~22~~ 23, above by requesting on numerous occasions that the
 22 Conservancy suspend activity pursuant to the May 16 Action until
 23 Petitioner has been provided with notice and an opportunity to be
 24 heard regarding the issues which should be included in the study
 25 of the Easement. Petitioner's repeated requests for notice and an
 26 opportunity to be heard have been denied, and indeed, Conservancy
 27 staff refused to present such requests to the Conservancy Board
 28 (~~See, Declaration of Allan J. Absher at 11, 8, 9 and 10.~~) The

1 Conservancy's actions therefore demonstrate that, not only has
2 Petitioner exhausted his administrative remedies, but it would
3 have been futile for him to do anything other than file the
4 instant Petition.

5 25 27. Pursuant to Horn v. County of Ventura, 24 Cal. 3d
6 605, 156 Cal. Rptr. 718 (1979), the Conservancy had a ministerial
7 duty to provide Petitioner, as a property owner whose property
8 rights will be affected by the Conservancy's activities, with
9 notice and an opportunity to be heard regarding which issues
10 should be addressed in the study considering opening and
11 developing the Easement.

12 ~~26. The Conservancy failed to provide Petitioner with notice~~
13 ~~and an opportunity to be heard in violation of its ministerial~~
14 ~~duty as required by 28. In addition, pursuant to Horn v. County~~
15 ~~of Ventura, 24 Cal. 3d 605, 156 Cal. Rptr. 718 (1979), the~~
16 ~~Conservancy had a ministerial duty to provide Petitioner, as a~~
17 ~~property owner whose property rights will be affected by the~~
18 ~~Conservancy's activities, with notice and an opportunity to be~~
19 ~~heard before it entered into the 20-year property management~~
20 ~~agreement with the MRCA. 29. The Conservancy failed to~~
21 ~~provide Petitioner with notice and an opportunity to be heard in~~
22 ~~violation of its ministerial duty as required by Horn v. County of~~
23 ~~Ventura, 24 Cal. 3d 605, 156 Cal. Rptr. 718 (1979), and has since~~
24 repeatedly refused Petitioner's reasonable requests to stay the
25 feasibility study until a properly noticed hearing has been held.

1 ~~27~~ 30. Consequently, Petitioner has no other speedy or
2 adequate remedy in the ordinary course of law except pursuant to
3 the claims raised in this Petition.

4 ~~28~~ 31. The Conservancy's actions and failures to act, as
5 described herein, constitute separate and independent violations
6 of its duties as imposed by California law, and prejudicial abuses
7 of discretion. Petitioner is therefore entitled to relief through
8 the issuance of a writ of mandate pursuant to Section 1085 of the
9 California Code of Civil Procedure, as set forth in the prayer for
10 relief in connection with this First Cause of Action.

11 SECOND CAUSE OF ACTION - WRIT OF MANDATE

12 FAILURE TO PROVIDE SECTION 31107.1 NOTICE

13 (Against the Conservancy and the Board)

14 (Cal. Civ. Proc. Code. § 1085)

15 ~~29~~ 32. Petitioner realleges and incorporates herein by
16 this reference as though the same were fully set forth herein each
17 and every allegation set forth above in Paragraphs 1 through ~~28~~
18 31, inclusive, of this Petition.

19 ~~30~~ 33. Section 31107.1 of the Public Resources Code
20 requires the Conservancy and the Department of General Services to
21 jointly develop and implement procedures to ensure that the
22 Conservancy's transactions are undertaken "efficiently and
23 equitably with proper notice to the public."

24 ~~31~~ 34. The Conservancy failed to provide Petitioner with
25 notice of the Conservancy's proposed May 16 Action in violation of
26 its ministerial duty imposed by Section 31107.1 of the Public
27 Resources Code.

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1 35. The Conservancy also failed to provide Petitioner with
 2 advance notice of the 20-year property management agreement with
 3 the MRCA, notwithstanding that, upon information and belief, the
 4 terms of this agreement provide for the MRCA to have direct access
 5 to Petitioner's property to operate and maintain the Easement once
 6 it has been constructed. _

7 ~~32~~ 36. The Conservancy's actions and failures to act, as
 8 described herein, constitute separate and independent violations
 9 of its duties as imposed by California law, and prejudicial abuses
 10 of discretion. Petitioner is therefore entitled to relief through
 11 the issuance of a writ of mandate pursuant to Section 1085 of the
 12 California Code of Civil Procedure, as set forth in the prayer for
 13 relief in connection with this Second Cause of Action.

14 THIRD CAUSE OF ACTION - WRIT OF MANDATE

15 FAILURE TO INSTITUTE SECTION 31107.1 NOTICE PROCEDURES

16 (Against All Respondents)

17 (Cal. Civ. Proc. Code § 1085)

18 ~~33~~ 37. Petitioner realleges and incorporates herein by
 19 this reference as though the same were fully set forth herein each
 20 and every allegation set forth above in Paragraphs 1 through ~~32~~
 21 36, inclusive, of this Petition.

22 ~~34~~ 38. Section 31107.1 of the Public Resources Code
 23 requires the Conservancy and the Department of General Services to
 24 jointly develop and implement procedures to ensure that the
 25 Conservancy's transactions are undertaken "efficiently and
 26 equitably with proper notice to the public."

27 ~~35~~ 39. Although the Conservancy and the Department of
 28 General Services have entered into a "Memorandum of Understanding

1 Concerning Real Property Transactions" (hereinafter "Memorandum of
2 Understanding") which the Conservancy contends satisfies the
3 Conservancy's obligations under Section 31107.1 (~~see, Exhibit J at~~
4 ~~pages 32 to 42 of the Administrative Record~~), the Memorandum of
5 Understanding does not ensure that the Conservancy's transactions
6 are undertaken "with proper notice to the public" as required by
7 Section 31107.1. In fact, the only provisions regarding public
8 notice in the Memorandum of Understanding relate solely to the
9 Conservancy's disposition of property.

10 ~~(See, Exhibit J at pages 39 to 42 of the Administrative~~
11 ~~Record.)~~

12 ~~36~~ 40. The failure of the Conservancy and/or the Department of
13 General Services to develop and implement notice procedures as
14 required by Section 31107.1 of the Public Resources Code
15 contributed to the Conservancy's failure to provide Petitioner and
16 other interested members of the public with notice and opportunity
17 to be heard regarding the proposed study and also contributed to
18 the Conservancy's failure to provide Petitioner and other
19 interested members of the public with advance notice of the
20 Conservancy's 20-year property management agreement with the MRCA,
21 and constitutes a continuing violation of the Conservancy's
22 statutory obligations to the public and property owners throughout
23 California that may be materially affected by the Conservancy's
24 actions.

25 ~~37~~ 41. The Conservancy's and Department of General
26 Services' actions and failures to act, as described herein,
27 constitute separate and independent violations of their duties as
28 imposed by California law, and prejudicial abuses of discretion.

1 Petitioner is therefore entitled to relief through the issuance of
2 a writ of mandate pursuant to Section 1085 of the California Code
3 of Civil Procedure, as set forth in the prayer for relief in
4 connection with this Third Cause of Action.

5 FOURTH CAUSE OF ACTION - WRIT OF MANDATE

6 VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

7 (Against the Conservancy and the Board)

8 (Cal. Civ. Proc. Code § 1085 & Pub. Res. Code § 21102)

9 ~~38~~ 42. Petitioner realleges and incorporates herein by
10 this reference as though the same were fully set forth herein each
11 and every allegation set forth above in Paragraphs 1 through ~~37~~
12 41, inclusive, of this Petition.

13 ~~39~~ 43. Developing the Easement and opening it to public
14 use constitutes a discretionary project which is subject to the
15 provisions of the California Environmental Quality Act
16 (hereinafter "CEQA").

17 44. The 20-year property management agreement which the
18 Conservancy entered into with the MRCA constitutes a discretionary
19 project which is subject to the provisions of CEQA.

20 45. Although the Conservancy's 20-year property management
21 agreement is a discretionary project within the meaning of CEQA,
22 upon information and belief, the Conservancy and the MRCA have
23 failed to comply with CEQA in connection with entering into the
24 20-year property management agreement.

25 ~~40~~ 46. The Conservancy characterizes the study authorized
26 by the Board on May 16, 1996 as a "feasibility study" of the
27 project.

28

1 ~~41~~ 47. Section 21102 of the Public Resources Code requires
2 that feasibility studies must include the consideration of
3 environmental factors.

4 ~~42~~ 48. Section 21106 of the Public Resources Code requires
5 that all state agencies must request in their budgets the funds
6 necessary to protect the environment in relation to problems
7 caused by the agencies' activities.

8 ~~43~~ 49. In violation of the ministerial duty imposed by
9 Section 21102 and in violation of CEQA's prohibition against the
10 "piece-meal" evaluation of projects, the study authorized by the
11 Conservancy only authorizes consideration of construction costs
12 and does not include the consideration of any environmental
13 factors, including factors necessary to enable the Conservancy to
14 comply with its obligations under Section 21106 of the Public
15 Resources Code. ~~(See, Exhibit B at pages 6, 7 and 11 to~~
16 ~~Administrative Record.)~~ Specifically, the study will not include
17 consideration of the factors set forth in Paragraph ~~48~~ 19 of this
18 Petition.

19
20 ~~44~~ 50. In accordance with Section 21177(e) of the Public
21 Resources Code, Petitioner's exhaustion obligation under CEQA is
22 excused by the failure of the Conservancy to provide Petitioner
23 with notice and an opportunity to be heard.

24 ~~45~~ 51. The Conservancy's actions and failures to act, as
25 described herein, constitute separate and independent violations
26 of its duties as imposed by California law, and prejudicial abuses
27 of discretion. Petitioner is therefore entitled to relief through
28 the issuance of a writ of mandate pursuant to Section 1085 of the

1 California Code of Civil Procedure, as set forth in the prayer for
2 relief in connection with this Fourth Cause of Action.

3 PRAYER FOR RELIEF

4 WHEREFORE, Petitioner prays for relief as follows:

5 A. On the First, Second, Third, and Fourth Causes of
6 Action, that this Court issue an ~~alternative~~ a peremptory writ of
7 mandate, pursuant to Section 1085 of the California Code of Civil
8 Procedure, commanding Respondents and each of them, to stay all
9 activities relating to the May 16 Action until Petitioner and
10 other affected property owners have been provided with notice and
11 an opportunity to be heard regarding the scope of any study or
12 studies relating to the feasibility of opening and/or developing
13 the Easement;

14 B. On the First, Second, Third, and Fourth Causes of
15 Action, that this Court issue a peremptory writ of mandate
16 pursuant to Section 1085 of the California Code of Civil
17 Procedure, setting aside the Conservancy's 20-year property
18 management agreement for failure to provide Petitioner and other
19 affected property owners with advance notice of the agreement and
20 for failure to comply with CEQA;

21 B C. On the Third Cause of Action, that this Court issue an
22 ~~alternative~~ a peremptory writ of mandate, pursuant to Section 1085
23 of the California Code of Civil Procedure, commanding Respondents
24 and each of them, to develop and implement notice procedures to
25 ensure that the Conservancy's transactions are undertaken
26 "efficiently and equitably with proper notice to the public" as
27 required by Section 31107.1 of the Public Resources Code.

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1 E D. On the Fourth Cause of Action, that this Court issue an
 2 alternative a peremptory writ of mandate, pursuant to Section 1085
 3 of the California Code of Civil Procedure, commanding Respondents
 4 and each of them, to include environmental factors listed in
 5 Paragraph ~~18~~ 19, above within the scope of any feasibility study
 6 regarding the Easement which may be authorized after Petitioners
 7 and other affected property owners are provided with notice and
 8 opportunity to be heard;

9 D E. On the First, Second, Third, and Fourth Causes of
 10 Action, that the Court award Petitioner attorneys' fees pursuant
 11 to Section 1021.5 of the California Code of Civil Procedure on the
 12 grounds that (i) Petitioner's action protects the important right
 13 of the general public to receive notice of the Conservancy's
 14 transactions and compels the Conservancy and the Department of
 15 General Services to develop and implement long-overdue notice
 16 procedures, (ii) Petitioner's action protects the important right
 17 of the general public that feasibility studies include a
 18 consideration of environmental factors as required by CEQA, and
 19 (iii) Petitioner has undertaken a substantial financial burden,
 20 disproportionate to his individual stake in the matter, in an
 21 effort to privately enforce compliance with California law;

22 E F. That the Court award Petitioner the costs of suit
 23 incurred herein; and

24 F G. That the Court award Petitioner such other further
 25 relief as the Court may deem just and proper.

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 27 Dated: _____

IRELL & MANELLA LLP

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Allan J. Abshez
 Michael S. Lowe

By: _____
 Allan J. Abshez
 Attorneys for Petitioner Frank
 Mancuso, Sr.

VERIFICATION

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I, Frank Mancuso, Sr., hereby verify:

~~I am the Petitioner in this action and have read the foregoing Petition and know its contents. I declare that the facts alleged in the Petition are true of my own knowledge I declare under penalty of perjury that the foregoing is true and correct and that this verification is executed this day of , 1996 in Paris, France.~~

~~Frank Mancuso, Sr.~~

VERIFICATION

~~I, Frank Mancuso, Sr., hereby verify:~~

I am the Petitioner in this action and have read the foregoing Amended Petition and know its contents. I declare that the facts alleged in the Amended Petition are true of my own knowledge, except for those facts which are alleged on information and belief. As to the facts alleged on information and belief, I declare that I believe those facts to be true.

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

1 that this verification is executed this _____ day of _____,
2 1996.

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Frank Mancuso, Sr.

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----- COMPARISON OF HEADERS -----

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8 ----- COMPARISON OF FOOTERS -----

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~~LOWE02D9.WP .09~~ LOWE039F.WP .05

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-FOOTER 2-

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