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15  
16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **FOR THE COUNTY OF MONTEREY**

18  
19 TURN DOWN THE LIGHTS,

Case No. M116731

20 Petitioner,  
21 v.

**Memorandum of  
Points and Authorities  
in Opposition to  
Motion to Strike**

22 CITY OF MONTEREY,

23 Respondent.

24 \_\_\_\_\_/ Hearing Date: May 11, 2016  
Time: 2:00 p.m.  
25 Dept.: 1, Salinas

26 Hon. Lydia M. Villarreal

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1 **Introduction**

2 The augmented record provides essential evidence that allows petitioner Turn  
3 Down the Lights to paint a complete picture of the case. Its relevance to the legal issues  
4 is manifest. This Court’s initial ruling on the scope of the record was left intact by the  
5 Sixth District Court of Appeal, and the City offers no new facts or compelling argument.  
6

7 The City of Monterey planning staff made an internal determination on an  
8 undisclosed date that a pending LED streetlight project would be exempt from CEQA.<sup>1</sup>  
9 In November 2011, a City Council meeting agenda listed a “public appearance” item  
10 described simply as “Award Street and Tunnel Lighting Replacement Project Contract.”  
11 The agenda noted that the item was not formally noticed as there was to be no “public  
12 hearing.” Unsurprisingly, no members of the concerned public appeared at the meeting  
13 to object. The City Council approved the lighting project contract but did not consider a  
14 CEQA determination. Three months later, in February 2012, City staff took informal  
15 action, without Council approval, to prepare a Notice of Exemption from CEQA. By that  
16 time the public had actual knowledge of the project and its significant citywide impacts.  
17  
18  
19

20 The lighting project does not violate CEQA simply by virtue of being approved  
21 without notice or any public hearing. But by choosing to approve the project in an  
22 internal process of which the concerned public was unaware until the lights were  
23 installed, the City forfeited affirmative defenses vis-à-vis exhaustion of remedies and  
24 the scope of the record. Respectfully, the motion to strike should be denied.  
25  
26

27  
28 <sup>1</sup> Facts in the Introduction are cited to the record, *post*.

## Statement of Facts

In November 2011, the Monterey City Council agendized the “Award Street and Tunnel Lighting Replacement Project Contract” as a “public appearance” item.

(Administrative Record (AR):44.) While the City pronounces that it “provided regular notice” of the contract, it offers no evidence of any notice aside from sharing a copy of the agenda itself. (City Opposition (hereafter Opp.), p. 2, citing AR:38-41, 44-46.)

Availability of the agenda is apparently “regular notice;” the agenda notes that “public appearance items . . . do not require formal noticing as public hearings.” (*Ibid.*)

The “Council Agenda Report” (aka staff report) prepared by City staff stated:

### RECOMMENDATIONS

That the City Council adopt the attached resolution awarding a contract to Republic ITS for the Street and Tunnel Lighting Replacement Project for the base bid plus additive alternate bid amount of \$934,655 ...

[¶¶]

### ENVIRONMENTAL DETERMINATION

The City’s Planning, Engineering, and Environmental Compliance Division determined that this project is exempt from CEQA regulations under Article 19, Section 15302.

(AR:38-39.) The report explained that the City had been considering an energy savings project since 2009 to replace streetlights. (AR:40; 38-40.)

On November 1, 2011, as “public appearance” item 7 on the City Council agenda, and following a short staff presentation focusing on the energy savings from LED lights, the City Council awarded the contract. (AR:7, 12-37.) The approval resolution recited

1 that the City Finance Director had received and opened five bids for the lighting project  
2 the month prior, on October 5, 2011. (AR: 41.) No public notice had occurred. Although  
3 the agenda report recited that the project was exempt from CEQA, the Council did not  
4 consider or adopt any CEQA determination. A short exchange occurred between  
5 Councilmember Nancy Selfridge and General Service Superintendent George Helms:  
6 Councilmember Nancy Selfridge and General Service Superintendent George Helms:

7 COUNCILMEMBER SELFRIDGE: In our historic  
8 district, will the lights look like that? Or will they  
9 be somehow in a correct format?  
10

11 MR. HELMS: They won't look -- they won't look  
12 like that. There is a separate grant for decorative  
13 lights, and they'll look exactly the way they look now.

14 (AR:20.)

15 Two months later, in January 2012 the City began to install new LED streetlights  
16 both within and outside of the Old Town Historic District, inconsistent with the  
17 representation made to Councilmember Selfridge. (AR:676, 701, 886, 888, 892.)

18 Soon after, shocked City residents contacted the City with objections to the impacts of  
19 the overly-bright lights. Concerns focused on traffic and pedestrian safety, views, and  
20 impacts to the context of the City's nationally-important historic resources.  
21

22 Objections grew stronger as more lights were installed. Residents confirmed that  
23 the new, much stronger lighting was harsh and glaring; was painful to look at and  
24 obtrusive; created unsafe driving situations; detracted from the quality of life in the  
25 City; shone through private windows on private property; and impacted the historic  
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28

1 qualities of the Old Town Historic District. (*E.g.*, AR:681 [complaints that lights are too  
2 bright]; 682 [lights are bright and cause glare, trespass into homes]; 683 [lights shine  
3 through windows]; 685 [excessive light, ruins night sky]; 693 [lights impact quality of  
4 life]; 695 [lights negatively impact the landmark district]; 696 [lights are too bright];  
5 700-701 [light is “painful”; City-added light “shields” don’t work]; 706-708 [bright  
6 lights intrude into yard, are unsafe, are visible from block away,]; 711, 865 [lights impair  
7 sleep]; 874-875 [newspaper articles]; *see* 877-884, 901, 911-912, 921-1005.)  
8  
9

10 Resident Diane Belanger complained that the blinding LED light pierced her  
11 bedroom blackout shades and cast a “‘prison yard light’ on our lovely neighborhood.”  
12 (AR:691.) Ms. Belanger claimed that navigating the City’s hills while driving at night  
13 was now dangerous: “as a driver navigates hills, the lights are blinding.” (*Ibid.*) Other  
14 City residents noted that the City’s previous light fixtures had effective diffusing shades,  
15 which had softened their emitted light, while the new fixtures emitted a more intense  
16 light even with post-installation shields in place. (AR:677-678, 695, 862-865.)  
17  
18

19 One of the City residents who contacted the City regarding the impacts of the  
20 new LED lights was James Bryant, the owner-resident of the historic landmark Casa  
21 de la Torre Adobe (AR:409, 604-605, 862-863), a National Register property  
22 (AR:723, 732), and owner of *Carpe Diem Fine Books*, a local business located in a  
23 historic building on Pearl Street in downtown Monterey. (AR:409, 862-863).  
24 Mr. Bryant is the past president of the Alliance of Monterey Area Preservationists  
25 (AR:595) and is also a member of Turn Down the Lights.  
26  
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28



1 Mr. Bryant has been an advocate of contextually appropriate lighting in historic  
2 Monterey since 2002, and the record documents his years of cordial correspondence  
3 with the City regarding streetlight issues. (*E.g.*, AR:584-587, 589, 591, 593-596, 614,  
4 617.) After the LED lights were installed in early 2012, Mr. Bryant was among those  
5 who repeatedly contacted the City to explain problems with the lights and to suggest  
6 corrections. (*E.g.*, AR:700-701, 862-863, 863-867, 888, 903, 907, 908.)  
7

8 Residents continued to bring the adverse impacts of LED lights to the attention of  
9 City staff in the months following. (*See* AR:716-717, 857-862.) The City kept a  
10 spreadsheet to keep track of complaints. (AR:716-717, 857-861 .) To address some of the  
11 residents' complaints about impacts to their residences, the City attempted after-the-  
12 fact mitigations on a small fraction of the installed lights (AR:36, 857-861) — less than  
13 3% of the 1676 of the lights installed by the City — including adding light shields  
14 (*e.g.*, AR:, 716-717, 860-862, 862-863), dimming the lights (*e.g.*, AR:716-717), and  
15 trying to 'tilt' the lights. (*E.g.*, AR:911.)  
16  
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19 On February 21, 2012, Mr. Bryant again contacted the City, specifically about  
20 "the three lights that directly negatively impact Casa de la Torre." (AR:862) That same  
21 day, almost three months after the City approved the LED streetlights, City staff filed  
22 a Notice of Exemption claiming a Class 2 categorical exemption for the project. (AR:1.)  
23  
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1 **Statement of the Case**

2 This action was timely filed on March 22, 2012, within the 35-day statute of  
3 limitations following the posted Notice of Exemption. (Pub. Resources Code, § 21167,  
4 subd. (d).) A dispute arose about the petitioner’s exhaustion of remedies. The City’s  
5 demurrer to the petition on that issue was overruled by the Honorable Kay Kingsley.  
6

7 A second threshold dispute arose about the proper scope of the record, now the  
8 subject of this motion. The City contends that the record should not include some  
9 documents that were in its possession before November 2011 or documents generated  
10 after the City Council approved the contract to install the LED streetlights on  
11 November 1, 2011. The City has certified and lodged a partial record.  
12

13 Because *the City provided incomplete, inaccurate public notice of the project*  
14 *and no notice at all of its proposed CEQA exemption*, petitioner Turn Down the  
15 Lights contends that the record of proceedings not only includes the relevant  
16 documents in City files before 2011 but also documents provided to the City after the  
17 public learned of the project. In 2013, this Court granted the petitioner’s motion to  
18 augment the record and the Sixth District denied the City’s writ petition seeking to  
19 overturn the grant. The motion pleadings are here incorporated by reference.  
20

21 An augmented record, solely containing documents within the City’s files, is  
22 now lodged. Turn Down the Lights materially relied on the augmented record in its  
23 recent briefing on the merits of the underlying writ petition. (Opening Brief (hereafter  
24 OB), *passim*.)  
25  
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28

1 **Discussion**

2 The administrative record in a CEQA action is intended to be broad and inclusive.  
3 (*E.g., Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th  
4 48, pp. 63-64; *Consolidated Irrigation District v. Superior Court* (2012) 205  
5 Cal.App.4th 697, p. 717; *Eureka Citizens for Responsible Government v. City of Eureka*  
6 (2007) 147 Cal.App.4th 357, pp. 366-367; *County of Orange v. Superior Court* (2003)  
7 113 Cal.App.4th 1, p. 8.)  
8

9 The City nonetheless argues that when members of the public do not comment on  
10 a project before its approval, subsequent written communications cannot be part of the  
11 record. It contends that when an agency adopts a project with potentially significant  
12 environmental impacts — without noticing or holding a public hearing regarding any  
13 proposed CEQA exemption or the project’s parameters — the uninformed public forfeits  
14 rights to comment on the project after that date.  
15

16 The City’s arguments are insupportable in both law and equity.  
17

18 Whether or not augmentation of the record should occur largely relates to two  
19 facts: (1) the lack of public notice accurately describing the City Council’s proposed  
20 action in November 2011 and (2) adoption of a Notice of Exemption in February 2012.  
21 The City’s arguments largely spring from its assertions that it held a noticed public  
22 hearing regarding its contract approval on November 1, 2011 and that the Notice of  
23 Exemption was of no import. Neither of those assertions are supported by the record  
24  
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1           **A.     There was Inadequate Public Notice and no Public Hearing**

2           The scope of obligations of an environmental petitioner to exhaust remedies *by*  
3 *providing comments and evidence* — that will then become part of the administrative  
4 record — depend on notice and an opportunity to be heard. (Pub. Resources Code,  
5 § 21177.) Each contested issue must be presented to a public agency, as a codified  
6 matter of fairness, “during the public comment period provided by this division or prior  
7 to the close of the public hearing on the project before the issuance of the notice of  
8 determination.” (Pub. Resources Code, § 21177 subd. (a), (b).)  
9

10           However, an agency’s reliance on a CEQA exemption requires neither public  
11 notice nor a comment period. (CEQA Guidelines [14 Cal. Code Regs, § 15000, et seq.],  
12 § 15061.) An agency may choose to rely on an exemption — without notice — and then  
13 choose whether to file a Notice of Exemption to trigger a 35-day statute of limitations.  
14 (*Id.*, subd. (d).) But unless the agency provides notice and an opportunity to be heard,  
15

16           ... it will not develop an evidentiary record suitable for judicial review. In such a  
17 case, admission of evidence from outside the record would usually be necessary.  
18 For example, in *City of Pasadena v. State of California* [(1993) 14 Cal.App.4<sup>th</sup>  
19 810] the agency adopted a categorical exemption for a project and, consistent  
20 with CEQA, did not hold a hearing or solicit public comments before filing the  
21 notice of exemption. The decision was reviewed under CCP § 1085, and the trial  
22 court received and considered additional evidence. In the authors’ view, this was  
23 appropriate because a complete evidentiary record, including comments,  
24 evidence, and objections submitted by interested parties, had not been developed  
25 the administrative level.  
26

27  
28 (2 Kostka & Zischke, *Practice Under the Cal. Environmental Quality Act* (Cont.Ed.Bar

1 2d ed. [2013]) §§ 23.55-23.56, pp. 1194-1196.) The CEB treatise’s analysis of the law,  
2 including the *Pasadena* case, is cognizant of the Supreme Court’s landmark ruling in  
3 *Western States Petroleum Association v. Superior Court of Los Angeles County* (1995)  
4 9 Cal.4th 559; and emphasizes that the Supreme Court “did not decide when an  
5 administrative record on CEQA issues would be adequate for judicial review, thus  
6 precluding the admission of extrarecord evidence.” (*Ibid.*)  
7

8  
9 Here, there was neither public notice nor any public comment period preceding  
10 the City’s approval of the categorical exemption for the LED streetlight project. While  
11 the City’s motion to strike repeatedly asserts that the City Council approved the project  
12 at a “public hearing” in November 2011, during petitioner’s successful record  
13 augmentation proceedings in 2013 the City instead argued that because the City  
14 Council “put the matter up for public discussion, ... there was a staff presentation, a  
15 Power Point presented, there were questions asked ... [t]his *has all the hallmarks* of a  
16 public hearing ...” (Declaration of Sabrina V. Teller in Support of Motion to Strike,  
17 Ex. A, Reporter’s Transcript, pp. 6-7.)  
18

19  
20 CEQA does not require, or define, “public hearings.” Even if the agenda item for  
21 the LED streetlight project had been adequately described on the Council agenda, the  
22 City has pointed to none of its ordinances under which such an agenda provides  
23 sufficient public notice for a public hearing. The City’s contention that “*the City*  
24 *provided an opportunity for the public to comment on the project and to submit*  
25 *evidence into the record*” thus mischaracterizes key facts. (Opp., p. 8, italics added.)  
26

27  
28 Without meaningful public notice there is no effective opportunity for the public to

1 comment or submit evidence. (*Ante*, pp. 2-3.) Again, a City agenda simply listed the  
2 “Award Street and Tunnel Lighting Replacement Project Contract” as a minor “public  
3 appearance” item, confirming that “*public appearance items ... do not require formal*  
4 *noticing as public hearings.*” (AR: 44, italics added, OB, p. 7.)

5  
6 Without public notice describing project parameters and an intention to exempt  
7 the project from CEQA, how would City residents know to show up? There was no  
8 public hearing, “hallmarks” aside. The record shows that when informed of the actual  
9 project — by experiencing adverse environmental effects, since the City did not provide  
10 notice — many concerned Monterey residents contacted the City. (*Ante*, pp. 3-5.)

11  
12 Public Resources Code section 21177 subdivision (e) excuses issue exhaustion  
13 when there is no public hearing or public comment directed to a project’s CEQA  
14 compliance: “This section does not apply to any alleged grounds for noncompliance  
15 with this division for which there was no public hearing or other opportunity for  
16 members of the public to raise those objections orally or in writing.”

17  
18 *Azusa Land Reclamation Company v. Main San Gabriel Basin Watermaster*  
19 (1997) 52 Cal.App.4th 1165 is on point; exhaustion of remedies was not required  
20 because the project approval hearing was not considered public under the agency’s own  
21 rules. The public agency held a regularly scheduled public meeting, took comments  
22 from public agencies, experts, and others, then approved the project and found it  
23 exempt from CEQA. (*Id.*, p. 1188.) “[T]here was no public hearing ... there was simply a  
24 regularly scheduled public meeting of the Regional Board.” (*Id.*, p. 1211.)

25  
26  
27 *Tomlinson v. County of Alameda* (2012) 54 Cal.4th 281 addressed a CEQA  
28

1 addendum that, similar to an exemption, required no public comment period. But in  
2 *Tomlinson*, unlike in this case, the agency provided express public notice of its intention  
3 to rely on a specific exemption from CEQA, and a public hearing was held on that  
4 defined issue. (*Id.*, pp. 287-288.) The Supreme Court held that administrative remedies  
5 must be exhausted “as long as the public agency gives notice of the ground for its  
6 exemption determination, and that determination is preceded by public hearing” where  
7 objections may be raised. (*Id.*, p. 291.) The City provided no such public notice  
8 regarding the LED lights project. Under *Tomlinson*, without notice there is no  
9 requirement for a petitioner to exhaust remedies.  
10

11  
12 Consistently, *Santa Teresa Citizen Action Group v. City of San José* (2003)  
13 114 Cal.App.4th 689, did not require exhaustion of remedies to challenge a CEQA  
14 document even though the project was considered at a hearing before the San José City  
15 Council, because there had been no public notice specifically regarding the City’s  
16 proposed CEQA compliance. (*Id.*, pp. 701-702.)  
17

18  
19 Here, as noted above, the City did not provide accurate notice of the project  
20 description before its November 2011 meeting and did not hold a public hearing.  
21 Moreover, the exemption was not adopted until after the streetlights had already been  
22 approved and installed. And, unlike the facts in *Azusa*, the City did not adopt express  
23 findings supporting the CEQA exemption. As the *Tomlinson* Court emphasized:  
24

25 [T]he exhaustion requirement’s application is conditioned upon the holding of  
26 public hearings to present any objections to or concerns about the proposed  
27 project, thus confirming that what matters is the opportunity for comment at  
28 such public hearings.

1 (Id., pp. 290-291.)  
2  
3

4 [W]e conclude that the exhaustion-of-administrative-remedies requirement set  
5 forth in ... section 21177 applies to a public agency's decision that a proposed  
6 project is categorically exempt from CEQA compliance as long as the public  
7 agency gives notice of the ground for its exemption determination, and that  
8 determination is preceded by public hearings at which members of the public had  
9 the opportunity to raise any concerns or objections to the proposed project.

10 (Id., p. 291.)  
11

12 The City of Monterey neither gave notice of the ground for its exemption nor  
13 preceded that decision with a noticed public hearing. Because there was no meaningful  
14 opportunity for public comment, the City's action was an informal action and admission  
15 of extra-record evidence is appropriate under *Western States Petroleum Association v.*  
16 *Superior Court of Los Angeles County, supra*, 9 Cal.4th 559, pp. 575-576. In *Western*  
17 *States*, the Supreme Court held that in a traditional mandamus action — involving a  
18 public agency's own project — the record may include evidence that existed before the  
19 agency made its challenged decision, evidence that could not have been presented to the  
20 agency in the exercise of due diligence, and evidence useful for background information  
21 or to ascertain if the agency adequately considered relevant factors. (*Id.*, pp. 578-579.)  
22  
23

24 The City suggests that concerned members of the public could have provided the  
25 documents in the augmented record to the City before project approval, but fails to  
26 describe how they could have known to do so. The augmented record includes a request  
27  
28



1 from James Bryant to the City asking to be notified of actions regarding lighting in  
2 Monterey's historic districts (AR:592.) Mr. Bryant and others had participated actively  
3 in the City's review of lighting in the historic district in 2009. (AR:587-591, 604-608.)  
4 The City did not notify Mr. Bryant about the proposed approval of city-wide LED  
5 streetlights. When the public became aware that the streetlights were being installed,  
6 Mr. Bryant and other members of the public began to comment. (AR:695, 716.)  
7

8  
9 Tellingly, in its opposition brief on the merits the City references a controlling  
10 case, *Defend Our Waterfront v. California State Lands Commission* (2015) 240  
11 Cal.App.4<sup>th</sup> 570, regarding inadequate notice that excuses exhaustion of administrative  
12 remedies. (Opp., p. 28.) But the City fails to cite the case at all in its motion to strike.  
13

14 In the City's words, *Defend Our Waterfront* "held that because the [agency's]  
15 meeting agenda had not mentioned the [CEQA] exemption determination, there had  
16 been inadequate notice of that determination prior to the public hearing, ... excusing  
17 petitioners from their duty to exhaust." (Opp., p. 28, citing *Defend Our Waterfront*,  
18 *supra*, 240 Cal.App.4<sup>th</sup> 570.) But, the City offers, this Court "can, and should, decline to  
19 follow [*Defend Our Waterfront*] ..." because it "misinterprets the law..." (Opp., p. 28.)  
20

21 In fact, the case is both binding authority and correctly decided. In both *Defend*  
22 *Our Waterfront* and this case, while CEQA does not require an agency to provide public  
23 notice of its intention to approve a project based on an exemption, a lack of notice of  
24 project parameters or the proposed exemption defeats any claim that a petitioner did  
25 not exhaust administrative remedies. *The same logic applies to the scope of the record.*  
26 What administrative remedies were made available? *None.* How can the public produce  
27  
28

1 evidence to rebut a CEQA exemption unless notice is first provided that it is proposed?

2 The City's protestations that members of Turn Down the Lights failed to exhaust  
3 remedies or take advantage of public comment opportunities are unsupported.  
4

5 **B. The Augmented Record Evidence is Admissible**  
6

7 When there is no public notice or opportunity for public comment, agency  
8 decisions are considered informal actions that may require extra-record evidence for  
9 judicial review. Informal decisions proceed via traditional mandamus under Code of  
10 Civil Procedure section 1085. (*Western States, supra*, 9 Cal.4th 559, p. 575.)  
11 Augmentation of the record may be necessary in actions regarding informal agency  
12 decisions "because there is often little or no administrative record in such cases." (*Ibid.*)  
13 That is precisely the case here, as the City's proposed record provides a scant and  
14 incomplete picture of the impacts of the LED lighting project in Monterey.  
15

16 *Friends of the Old Trees v. Cal. Dept. of Forestry and Fire Protection* (1997) 52  
17 Cal.App.4th 1383 is distinguishable. In that case, public notice created "numerous  
18 opportunities for public and agency input..." (*Id.*, p. 1392 and fn. 6.) The public made  
19 comments in "numerous letters" and participated in the process. (*Id.*, p. 1398).  
20

21  
22 Contrary to the City's allegations, *City of Pasadena* was not overturned except to  
23 the extent it is inconsistent with the *Western States* case. The commentators in Kostka  
24 & Zischke's treatise, *Practice Under the California Environmental Quality Act, supra*,  
25 continue to cite *Pasadena* as an example of an informal agency decision. (*Ante*, p. 8.)  
26 The opinions of Kostka & Zischke are of particular interest because the Supreme Court  
27  
28

1 relied heavily on their analysis in establishing the limitations on evidence in *Western*  
2 *States*. (*Western States, supra*, 9 Cal.4<sup>th</sup>559, p. 575, citing the 1993 edition.)

3  
4 The augmented documents contain relevant and material records that the City  
5 had in its possession prior to approving the contract for the streetlights, as in *County of*  
6 *Orange v. Superior Court, supra*, 113 Cal.App.4<sup>th</sup> 1, p. 8, and *Mejia v. City of Los*  
7 *Angeles* (2005) 130 Cal.App.4<sup>th</sup> 322, p. 335. The augmented documents are not really  
8 “extra record” because they are part of the record in the City’s relevant files.  
9

### 10 Conclusion

11 As the California Supreme Court has repeatedly directed, it is the Legislature's  
12 intent that CEQA “be interpreted in such manner as to afford the fullest possible  
13 protection to the environment within the reasonable scope of the statutory language.”  
14 (*Concerned Citizens of Costa Mesa v. 32<sup>nd</sup> District Agricultural Association* (1986) 42  
15 42 Cal.3d 929, p. 939.) Nothing in Public Resources Code section 21167.6 or in Code of  
16 Civil Procedure section 1085 supports excluding the augmented documents from the  
17 record and hampering this Court’s review of this public interest case.  
18


19 In light of the lack of public notice or public hearing, the augmented record is  
20 appropriate and essential to provide an adequate record for this Court’s review.  
21

22  
23 Petitioner Turn Down the Lights requests that the motion to strike be denied.


24 February 26, 2016

Respectfully submitted,

25 STAMP|ERICKSON

26 by   
27 Molly E. Erickson  
28

BRANDT-HAWLEY LAW GROUP  
PROVENCHE & FLATT, LLP

by   
Susan Brandt-Hawley  
Rachel Mansfield-Howlett  
Attorneys for Petitioner Turn Down the Lights

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**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF MONTEREY

I am employed in the County of Monterey, State of California. I am over the age of 18 and not a party to the within action. My business address is 479 Pacific Street, Suite One, Monterey, California 93940. My email address is mcfarren@stamlaw.us.

On February 26, 2016, I served the document(s) described as follows:

**Memorandum of Points and Authorities in Opposition to  
Motion to Strike**

( X ) VIA ELECTRONIC MAIL pursuant to stipulation by all parties, via electronic mail at approximately \_\_\_\_\_ PM. No error message was received by me. Addressed as follows:

For Respondent City of Monterey:

Christine Davi  
<davi@monterey.org>

Sabrina Teller  
<steller@rmmenvirolaw.com>

Executed and emailed on February 26, 2016.

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

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Rachael McFarren