

1 JOHN G. McCLENDON (State Bar No. 145077)  
2 ALISHA M. SANTANA (State Bar No. 240969)  
3 LEIBOLD McCLENDON & MANN  
4 A Professional Corporation  
5 23422 Mill Creek Drive, Suite 105  
6 Laguna Hills, California 92653  
7 Telephone: (949) 457-6300  
8 Facsimile: (949) 457-6305  
9 eMail: john@CEOA.com  
10 alisha@CEOA.com

FILED  
SUPERIOR COURT  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

JUL 30 2008

BY *Dante S. Johnson*  
DEPUTY

11 Attorneys for Petitioner  
12 COALITION FOR ENVIRONMENTAL INTEGRITY IN YUCCA VALLEY

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 FOR THE COUNTY OF SAN BERNARDINO

15 COALITION FOR ENVIRONMENTAL  
16 INTEGRITY IN YUCCA VALLEY, an  
17 unincorporated association,

18 Petitioner,

19 v.

20 TOWN OF YUCCA VALLEY, TOWN  
21 COUNCIL OF THE TOWN OF YUCCA  
22 VALLEY, and DOES 1 through 25,  
23 inclusive,

24 Respondents,

25 NASLAND ENGINEERING, a California  
26 corporation, WAL-MART STORES, INC., a  
27 Delaware corporation, and ROES 1 through  
28 25, inclusive,

Real Parties in Interest.

Case No. CIVSS 810232

**PETITION FOR WRIT OF MANDATE**  
[Public Resources Code § 21168; Code of  
Civil Procedure §§ 1085 and/or 1094.5;]

***LOCAL RULE 800 CEQA NOTICE:***  
***THIS PETITION INCLUDES A***  
***CALIFORNIA ENVIRONMENT***  
***QUALITY ACT ("CEQA") CAUSE OF***  
***ACTION TO BE ASSIGNED TO A***  
***SUPERIOR COURT JUDGE***  
***DESIGNATED IN ACCORDANCE***  
***WITH PUBLIC RESOURCES CODE***  
***§ 21167.1(b)***

LEIBOLD McCLENDON & MANN  
A PROFESSIONAL CORPORATION

INTRODUCTION

Petitioner COALITION FOR ENVIRONMENTAL INTEGRITY IN YUCCA VALLEY (the “Petitioner”) alleges as follows:

1. Petitioner challenges the decision of respondent Town Council of the Town of Yucca Valley (“Town Council”), as the elected legislative body for respondent Town of Yucca Valley ( “Town”), to approve the application of real party in interest Nasland Engineering (“RPI”), to develop within the Town a 184,146 square foot Wal-Mart “Supercenter” plus two pads allowing 3,500 square feet of retail use and 4,000 square feet of fast food restaurant (the “Project”) on a 28-acre parcel owned by Wal-Mart Stores and located on the southwest corner of Highway 62 and Avalon Avenue [APN 601-201-37] (the “Property”). The Town Council and the Town are hereinafter collectively referred to as “Respondent.”

2. Respondent approved RPI’s application when its elected legislative body, the Town Council adopted a Resolution approving Conditional Use Permit 02-04, and introduced an Ordinance adopting Specific Plan 01-04 for the Project (collectively, the “Entitlements”).

3. Petitioner contends that Respondent’s consultant’s preparation of the environmental impact report (“EIR”) [State Clearinghouse No. 2004071127] for the Project, and Respondent’s adoption of a Resolution certifying the EIR, violates specific provisions of the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*: “CEQA”) and the Guidelines for Implementation of CEQA (Title 14, California Code of Regulations, section 15000 *et seq.*: the “CEQA Guidelines”), a statutory and regulatory framework often referred to as the “Holy Grail” of California’s environmental laws.

4. The Project is being challenged because (among other things) it is a project that results in significant impacts on the environment that have not been adequately assessed or mitigated in accordance with CEQA. Respondent ignored substantial evidence that significant unmitigated impacts would result from the development of the Project upon the Property.

5. In refusing to prepare and certify a legally adequate EIR that fairly and honestly analyzed all of the potential impacts that will result from the Project, refusing to consider a number of feasible and environmentally superior alternatives to the Project, and failing to make

LEIBOLD McCLENDON & MANN  
A PROFESSIONAL CORPORATION

1 all mitigation measures fully enforceable, Respondent has disregarded or treated as a mere  
2 formality the specific and substantive requirements of CEQA and the CEQA Guidelines.

3 PARTIES AND BENEFICIAL INTEREST

4 6. Petitioner, the COALITION FOR ENVIRONMENTAL INTEGRITY IN YUCCA VALLEY, is  
5 an unincorporated umbrella association of and supported by individuals residing in the Town  
6 and surrounding communities as well as groups such as (1) the Morongo Basin Conservation  
7 Association, Inc., a California non-profit public benefit corporation organized and incorporated  
8 in November, 1969; (2) Citizens for Responsible Equitable Environmental Development, a  
9 California non-profit public benefit corporation organized and incorporated in January, 2003,  
10 for the specific purpose of advocating for responsible and equitable environmental development;  
11 (3) Joshua Tree Tortoise Rescue, a local grassroots non-profit organization; and (4) the Morongo  
12 Basin Property Association, a California corporation organized and incorporated in October,  
13 2007. On behalf of these and other individuals and groups, Petitioner challenges the Project's  
14 approval.

15 7. Petitioner is a party beneficially interested in the issuance of the requested writ of  
16 mandate ordering Respondent's compliance with CEQA and the CEQA Guidelines. These  
17 interests are directly and adversely affected by Respondent's approval of the Project, which  
18 violates the provisions of law as set forth herein and will cause substantial and irreversible harm  
19 to Petitioner. Moreover, under the unique circumstances of this action, Respondent failed to  
20 adequately address (among other things) the Project's global environmental impacts. Unless this  
21 Court grants the requested writ of mandate, the impacts resulting from the Town's decision to  
22 approve the Project will extend to areas in which numerous citizens represented by Petitioner  
23 live and will directly and adversely affect their health and living environment. Consequently,  
24 Petitioner is directly and beneficially interested in the issuance of the requested writ of mandate.

25 8. Petitioner has standing as a beneficially interested party to bring this action  
26 (i) because in accordance with Public Resources Code section 21177(c), Petitioner is an  
27 organization formed after the approval of the Project to maintain an action against the Town  
28 under CEQA, and (ii) because the Project's record of proceedings shows that representatives of

1 Petitioner's members complied with subdivisions (a) and (b) of Public Resources Code section  
2 21177 and exhausted their administrative remedies by timely commenting on and objecting to  
3 the contents and adequacy of the EIR.

4 9. Respondent TOWN OF YUCCA VALLEY is a general law city organized and existing  
5 under and by virtue of the laws of the State of California, and is situated in the County of San  
6 Bernardino. The Town of Yucca Valley is responsible for regulating and controlling land use  
7 in all areas within the Town, including (but not limited to) implementing and complying with  
8 the provisions of CEQA and the CEQA Guidelines.

9 10. Respondent TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY is the duly  
10 constituted legislative body of the Town. The Town Council is responsible for the formulation  
11 and implementation of land use plans in the Town and, in some cases, areas within the Town's  
12 sphere of influence, including the preparation and certification of legally adequate EIRs.

13 11. Petitioner is informed and believes and on that basis alleges that real party in  
14 interest NASLAND ENGINEERING is a California corporation and that RPI represented itself to  
15 Respondent as the only applicant for the Entitlements for the Property upon which the Project  
16 is to be developed. Therefore, based upon RPI's representation, Petitioner believes it has  
17 complied with subdivision (a) of Public Resources Code section 21167.6.5.

18 12. Petitioner is informed and believes and on that basis alleges that real party in  
19 interest WAL-MART STORES is a Delaware corporation ("Wal-Mart") and that Wal-Mart  
20 represented itself to Respondent as the owner of the Property and not the applicant for the  
21 Project Entitlements. Therefore, under subdivision (a) of Public Resources Code section  
22 21167.6.5, Petitioner is not required to name Wal-Mart as a real party in interest.

23 13. Petitioner is ignorant of the true names and capacities of the respondents named  
24 herein as DOES 1 through 25, inclusive, and therefore sues those respondents by such fictitious  
25 names. Petitioner will amend this petition to allege the true names and capacities of those Doe  
26 parties when ascertained. Petitioner is informed and believes, and on that basis alleges, that each  
27 of the parties designated herein as a Doe is responsible in some manner for the events and  
28 actions referred to herein.

1           14.     Petitioner is ignorant of the true names and capacities of the real parties in interest  
2 named herein as ROES 1 through 25, inclusive, and therefore sues those real parties in interest  
3 by such fictitious names. Petitioner will amend this petition to allege the true names and  
4 capacities of those Roe parties when ascertained. Petitioner is informed and believes, and on  
5 that basis alleges, that each of the parties designated herein as a Roe is responsible in some  
6 manner for the events and actions referred to herein.

7           15.     Petitioner is informed and believes, and on that basis alleges, that at all relevant  
8 times the Town, RPI, the Doe respondents and Roe real parties in interest were and are the agents  
9 of each other, authorized to do the acts herein alleged, each of which was ratified by the others.

10                           ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

11           16.     The Property consists of approximately 28 acres of land within the Town.

12           17.     The Project includes the development of a Wal-Mart Supercenter of approximately  
13 250,000 square feet, a 173,000 square foot “big box” to be occupied by Lowe’s Home  
14 Improvement Warehouse, the construction of an additional 80,000 square feet of new facilities  
15 for occupancy by other retail tenants, 5 fast food restaurants, and a 6 pump gas facility.

16           18.     On or about July 23, 2004, the Town provided a “Notice of Preparation” for the  
17 draft EIR for the Project. According to the Notice of Preparation “The proposed commercial  
18 retail center would be anchored by a Wal-Mart Supercenter and supported by a gas station and  
19 accompanying outparcels likely consisting of retail, fast-food and restaurant uses. The  
20 commercial center would be approximately 250,000 square feet. The Wal-Mart store would be  
21 approximately 215,000 square feet. The site would include 1,012 parking spaces for the Wal-  
22 Mart site and approximately 400 additional parking spaces for the outparcels.”

23           19.     On or about July 9, 2007, the Town released a “Notice of Completion” announcing  
24 the 45-day public review period for draft EIR with the comment period ending on August 23,  
25 2007. According to the Notice of Completion, “The proposed project involves the construction  
26 and operation of a 229,000-square foot supercenter, a twelve position gas station, a 4,000-square  
27 foot fast food restaurant, a 1.82-acre retention basin, and 10,000 gallon on-site wastewater  
28 treatment plant.”

1           20.    The Town noticed the Town Council’s public hearing on the Project and the  
2 certification of the Final EIR for its May 22, 2008, regular public meeting. Hundred of  
3 individuals attended the hearing to show their opposition to the Project, and many of them gave  
4 oral testimony regarding the Final EIR’s deficiencies. In order to respond to the numerous oral  
5 and written comments received on the Project and Final EIR prior to and at this hearing, the  
6 Town help open and continued the public hearing to a “special meeting” held on June 25, 2008.

7           21.    At the June 25, 2008, continued public hearing, persons who had previously voiced  
8 their support for the Project at the May 22<sup>nd</sup> hearing were allowed to speak again. However,  
9 Project opponents who had previously voiced their opposition to the Project at the May 22<sup>nd</sup>  
10 hearing were denied any opportunity to speak again.

11          22.    The Town Council closed the public hearing on June 25, 2008, whereupon a  
12 member of the Town Council proceeded to point out in detail that the “Market Impact Study”  
13 upon which the Final EIR relied in concluding that the Project would not result in urban decay  
14 impacts had utilized empirically false data that did not support its “no impact” conclusion.  
15 Nevertheless, the other members of the Town Council ignored this information and, by a vote  
16 of four to one, (1) adopted a Resolution certifying the Final EIR for the Project, including  
17 Environmental Findings, a Statement of Overriding Considerations, and a Mitigation Monitoring  
18 and Reporting Plan, (2) adopted a Resolution approving Conditional Use Permit 02-04, and  
19 (3) introduced an Ordinance for the adoption of Specific Plan 01-04.

20          23.    As of the date of this Petition, the Town Council has still not conducted the  
21 “second reading” of the Ordinance approving Specific Plan 01-04.

22          24.    Despite the Town Council not having conducted the “second reading” of the  
23 Ordinance approving Specific Plan 01-04, on or about June 30, 2008, Respondent filed a “Notice  
24 of Determination” for the Project with the Clerk of the San Bernardino County Board of  
25 Supervisors and the Governor’s Office of Planning and Research. According to the Notice of  
26 Determination, “The proposed project is a Specific Plan to authorize development of a  
27 commercial retail center that includes an approximately 184,146 square foot Wal-Mart  
28

1 Supercenter, a 3,500 square foot retail building, and a 4,000 square foot fast-food restaurant with  
2 drive-through on a 28 acre site.”

3 25. Petitioner has complied with the requirements of Public Resources Code  
4 section 21167.5 by sending, via United States Mail, a written notice of this action to the Town.  
5 A copy of the written notice provided to the Town is attached hereto as Exhibit A and  
6 incorporated herein by this reference.

7 26. Petitioner has complied with the requirements of Public Resources Code  
8 section 21167.7 and Code of Civil Procedure section 388 by furnishing a copy of this Petition  
9 to the Attorney General of California. A copy of the letter transmitting this petition to the  
10 Attorney General is attached hereto as Exhibit B and incorporated herein by this reference.

11 27. Petitioner has performed any and all conditions precedent to filing the instant  
12 action and has exhausted any and all available administrative remedies. There is no provision  
13 known to Petitioner for any further administrative remedial action from Respondent’s decision  
14 to certify the EIR and approve the Project.

15 28. Petitioner has no plain, speedy or adequate remedy in the ordinary course of law  
16 unless the Court grants the requested writ of mandate to require Respondent to comply with its  
17 duties and set aside its certification of the EIR and approval of the Project. In the absence of  
18 such remedies, Respondent’s certification of the EIR and approval of the Project will remain in  
19 effect in violation of State law.

20 29. If Respondent and RPI are not enjoined from implementing and undertaking acts  
21 in furtherance of the Project, members of Petitioner and others in the community will suffer  
22 irreparable harm from which there is no adequate remedy at law.

23 FIRST CAUSE OF ACTION

24 (Against Respondent for issuance of a writ of mandate pursuant to  
Public Resources Code section 21168; Failure to Comply with CEQA)

25 30. Petitioner incorporates herein by reference each and every allegation contained in  
26 Paragraphs 1 through 29, inclusive.

27 31. In order for an EIR to be legally adequate, it must comport with certain  
28 requirements set forth in CEQA and the CEQA Guidelines.

1           32. For example, CEQA and the CEQA Guidelines require that an EIR include a  
2 description of the Project and a discussion of alternatives to the Project, including (but not  
3 limited to) the “no project” alternative and alternative methods of accomplishing some, but  
4 perhaps not all, of the proposed Project’s objectives. However, Respondent did not proceed in  
5 the manner required by law in that it failed to provide an EIR that adequately discussed a  
6 reasonable range of alternatives to the proposed Project, thereby eliminating a meaningful basis  
7 for comparing the adverse environmental impacts of the proposed Project to environmentally  
8 superior alternatives.

9           33. Respondent further did not proceed in the manner required by law in that it  
10 produced an EIR that was biased in favor of the proposed Project’s approval and, therefore,  
11 failed to constitute the full disclosure document intended to objectively inform decision-makers  
12 and the public of the Project’s true impacts, mitigation measures, and alternatives.

13           34. Respondent’s certification that the EIR satisfied the requirements mandated by  
14 CEQA and the CEQA Guidelines constitutes an abuse of discretion in that Respondent failed  
15 to proceed in the manner required by law and its decision is not supported by substantial  
16 evidence, as follows:

17           a. Respondent failed to examine potentially significant impacts that  
18 may result from the Project on resources, including (among other things) air  
19 quality and the Project’s greenhouse gas emissions and incremental effects on  
20 global climate change despite being shown that it was necessary not only to  
21 quantify those effects but also to provide meaningful mitigation measures to lessen  
22 them;

23           b. Respondent failed to prepare an adequate EIR by not identifying and  
24 imposing adequate and fully enforceable mitigation requirements;

25           c. Respondent failed to prepare an adequate EIR by not adequately  
26 addressing the Project’s impacts on wildlife and groundwater resources;

27           d. Respondent failed to adequately examine the cumulative effects of  
28 the Project in light of other ongoing and proposed actions and projects that have

1 or may have similar effects either directly or indirectly, in the surrounding Town  
2 and County environment;

3 e. Respondent failed to prepare an adequate EIR by not adequately  
4 analyzing the extent to which the Project's effects will commit non-renewable  
5 natural resources to a use that future generations will not likely be able to reverse;

6 f. Respondent failed to prepare an adequate EIR by not adequately  
7 identifying and discussing the Project's cumulative impacts;

8 g. Respondent failed to prepare an adequate EIR by relying on a  
9 fundamentally flawed Market Impact analysis that used faulty assumptions to  
10 concluded that the Project would not cause urban decay; as a result, the EIR failed  
11 to carefully evaluate and effectively mitigate the Project's significant adverse  
12 effects in inducing urban decay;

13 h. Respondent failed to prepare an adequate EIR by not examining any  
14 alternatives identified by Petitioner's members and others that would mitigate the  
15 Project's energy demands.

16 35. CEQA and the CEQA Guidelines require Respondent to address comments and  
17 suggestions raised during the EIR review process and to prepare a good faith, reasoned analysis  
18 in response to all significant issues raised. Respondent did not proceed in the manner required  
19 by law in that it failed to adequately and accurately provide good faith, reasoned responses to  
20 comments made during the CEQA public review process, including (but not limited to)  
21 inadequate responses to comments raised concerning the Project's environmental impacts and  
22 feasible mitigation measures and alternatives.

23 36. CEQA and the CEQA Guidelines require that the lead agency make certain written  
24 findings and that the findings must be supported by substantial evidence in the record.  
25 Respondent did not proceed in the manner required by law in that it failed to adopt findings that  
26 are supported by substantial evidence.

27 37. Respondent did not proceed in the manner required by law in that it failed to adopt  
28 findings that adequately discussed all significant Project impacts, failed to make adequate

1 specific findings with regard to the feasibility of each mitigation measure and each alternative  
2 identified in the EIR, failed to adopt all feasible mitigation measures and the feasible and  
3 environmentally superior alternatives identified in the EIR, and failed to adequately identify  
4 considerations which would make infeasible or override those mitigation measures and  
5 alternatives.

6 38. CEQA and the CEQA Guidelines require that Respondent adopt feasible  
7 mitigation measures to avoid significant environmental impacts. Respondent did not proceed  
8 in the manner required by law in that it failed to prepare an adequate EIR by not examining and  
9 discussing potential mitigation measures that would substantially lessen the Project's reasonably  
10 foreseeable adverse impacts on the surrounding community.

11 39. CEQA and the CEQA Guidelines require that Respondent analyze a reasonable  
12 range of alternatives to avoid significant environmental impacts. Respondent failed to prepare  
13 an adequate EIR by not analyzing a reasonable range of alternatives to the Project, including  
14 feasible alternatives that are environmentally superior.

15 SECOND CAUSE OF ACTION

16 (Against Respondent for issuance of a writ of mandate under Code of Civil  
Procedure sections 1085 and/or 1094.5; Violation of State Laws and Regulations)

17 40. Petitioner incorporates herein by reference each and every allegation contained in  
18 Paragraphs 1 through 39, inclusive.

19 41. Respondent has the legal duty in approving a specific plan to comply with the  
20 applicable laws and regulations governing its actions. In particular, Respondent has the legal  
21 and non-discretionary duty to act in accordance with the requirements of State laws such as  
22 CEQA, the Ralph M. Brown Act (Government Code § 54950 *et seq.*), the Planning and Zoning  
23 Law (Government Code § 65000 *et seq.*), the California Water Code, and other applicable laws  
24 and regulations.

25 42. Respondent acted arbitrarily, capriciously, irrationally, and unreasonably, and  
26 without any or an adequate evidentiary basis in failing or refusing to comply with the  
27 requirements of CEQA, the State CEQA Guidelines, the Planning and Zoning Law, and other  
28 applicable laws and regulations. At all times material hereto, Respondent had, and continues to

1 have, the ability to comply with its legal duties. Notwithstanding the efforts of Petitioner and  
2 others to inform Respondent of its legal duties, and to induce Respondent to comply with its  
3 legal duties, Respondent has failed and refused to perform these duties as described herein.

4 43. The decision of Respondent to approve the Project constitutes a final decision as  
5 contemplated in Section 1094.5 of the Code of Civil Procedure.

6 44. Petitioner has exhausted all available administrative remedies. There is no  
7 provision known to Petitioner for any further administrative remedial action from the decision  
8 of Respondent to approve the Project.

9 45. Respondent has prejudicially abused its discretion by approving the Project  
10 permitting the acts and omissions described herein to occur.

11 46. In acting and failing to act in the manner described above, Respondent has acted  
12 in an arbitrary, capricious, and irrational manner lacking any reasonable basis, in violation of  
13 Code of Civil Procedure Sections 1085 *et seq.*

14 47. Petitioner is beneficially interested in issuance of the writ of mandate as prayed  
15 for hereafter. Petitioner will be seriously harmed if Respondent proceeds with the Project.

16 48. At all times material hereto, Respondent has been able to perform its duties and  
17 obligations as demanded by Petitioner and others. Respondent has, however, failed and refused  
18 to undertake its obligations.

19 49. Respondent has failed and refused to perform, or require its agents and/or  
20 consultants to perform, any of the above, notwithstanding the substantial evidence presented to  
21 Petitioner and others that such failures and refusals are contrary to law and will have adverse  
22 consequences on Petitioner and others.

23 50. Petitioner has no plain, speedy, or adequate remedy at law other than the relief  
24 sought in this petition. In acting and failing to act in the manner described above, Respondent  
25 has prejudicially abused its discretion in approving the Project, in violation of Code of Civil  
26 Procedures Section 1094.5 *et seq.*

27 PRAYER

28 WHEREFORE, Petitioner prays as follows:

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  
28


1. On the first cause of action, for a temporary restraining order and/or preliminary and permanent injunctions setting aside and rescinding Respondent's approval of the Project and further prohibiting Respondent and RPI from implementing the Project; or, alternatively, for a judgment granting a peremptory writ of mandate commanding Respondent to set aside its approval of the Project and ordering Respondent to take no further steps toward approving or otherwise implementing the Project unless and until Respondent fully complies with CEQA and the CEQA Guidelines;

2. On the second cause of action, for a writ of mandate pursuant to the Code of Civil Procedure section 1085 *et seq.* and/or section 1094.5 *et seq.*, commanding Respondent to set aside and rescind its approval of the Project and command that Respondent and RPI take no further steps toward implementing the Project;

- 3. For reasonable attorneys' fees in addition to any other relief granted;
- 4. For cost of suit incurred herein and for reasonable litigation expenses; and
- 5. For such other and further relief as the Court may deem just, equitable, or proper.

Dated: July 29, 2008

LEIBOLD McCLENDON & MANN, P.C.

By:   
John G. McClendon  
Attorneys for Petitioner  
COALITION FOR ENVIRONMENTAL  
INTEGRITY IN YUCCA VALLEY

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  
28

**VERIFICATION**

State of California, City of Laguna Hills

John G. McClendon hereby declares:

I am one of the attorneys for Coalition for Environmental Integrity in Yucca Valley, the petitioner in this action. Such party is absent from the county of aforesaid where such attorneys have their office, and I make this verification for and on behalf of such party for that reason. I have read the foregoing Petition for Writ of Mandate and know its contents. I am informed and believe on that ground allege that the matters stated in it are true.

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

Executed this 29th day of July, 2008

  
\_\_\_\_\_  
John G. McClendon

LEIBOLD McCLENDON & MANN  
A PROFESSIONAL CORPORATION

**EXHIBIT A**

# LEIBOLD McCLENDON & MANN

A PROFESSIONAL CORPORATION

23422 MILL CREEK DRIVE, SUITE 105  
LAGUNA HILLS, CALIFORNIA 92653  
(949) 457-6300

FAX: (949) 457-6305

JOHN G. McCLENDON  
john@CEQA.com

July 29, 2008

Via United States Postal Service

Town Clerk for the Town of Yucca Valley  
57090 Twentynine Palms Highway  
Yucca Valley, CA 92284

Re: *Yucca Valley Retail Specific Plan Environmental Impact Report [SCH 2004071127]*

Dear Town Clerk:

Please take notice that the Coalition for Environmental Integrity in Yucca Valley intends to commence an action against the Town of Yucca Valley to set aside its recent approval of Nasland Engineering's application to develop a 184,146 square foot Wal-Mart "Supercenter" plus two pads allowing 3,500 square feet of retail use and 4,000 square feet of fast food restaurant on a 28-acre parcel owned by Wal-Mart Stores and located on the southwest corner of Highway 62 and Avalon Avenue [APN 601-201-37] (the "Project"). The litigation will challenge (among other things) the Town Council's adoption of a resolution certifying the final Environmental Impact Report [State Clearinghouse No. 2004071127] for the Project and will allege (among other things) the City's violation of the California Environmental Quality Act (Public Resources Codes section 21000 *et seq.*) and the State Guidelines for Implementing CEQA (Title 14, California Code of Regulations, section 15000, *et seq.*). The grounds for these allegations were previously provided to the Town's appointed and elected decision-making bodies by this office and others during the administrative processing and review of the Project.

This notice is provided pursuant to Public Resources Code section 21167.5.

Very truly yours,

LEIBOLD McCLENDON & MANN, P.C.



By: John G. McClendon

**EXHIBIT B**

# LEIBOLD McCLENDON & MANN

A PROFESSIONAL CORPORATION

23422 MILL CREEK DRIVE, SUITE 105  
LAGUNA HILLS, CALIFORNIA 92653  
(949) 457-6300

FAX: (949) 457-6305

July 29, 2008

JOHN G. McCLENDON  
john@CEQA.com

Honorable Edmund G. Brown, Jr., Attorney General  
Ronald Reagan Building  
300 South Spring Street  
Suite 5212  
Los Angeles, California 90013

Re: *Coalition for Environmental Integrity in Yucca Valley v. Town of Yucca Valley*

Dear Mr. Brown:

Enclosed please find a copy of the *Petition for Writ of Mandate* in the above-captioned action. This copy is provided to you in compliance with Public Resources Code section 21167.7, and Code of Civil Procedure section 388.

The litigation challenges the Town of Yucca Valley's approval of an application to develop a new 184,146 square foot Wal-Mart "Supercenter" plus two pads allowing an additional 7,500 square feet of retail and fast food restaurant uses on a 28-acre parcel. **Among other things, the EIR prepared for the project failed to adequately analyze and mitigate the project's greenhouse gas emissions and incremental effect on global climate change, and the Town dismissed them as "less than significant" despite receiving copies of your office's January 7, 2008, *Mitigation for Global Warming Impacts*, and the Technical Advisory entitled *CEQA & Climate Change: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review* that the Governor's Office of Planning and Research issued on June 17, 2008.**

Please acknowledge receipt of the enclosed document. Unless you request otherwise, we will not serve on your office any documents other than this initial pleading and any amended or supplemental initial pleadings. Thank you for your attention to this matter, and please do not hesitate to call me if you would like to discuss this matter further.

Very truly yours,

LEIBOLD McCLENDON & MANN, P.C.



By: John G. McClendon

Enclosure