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Superior Court of California,
County of San Francisco

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Clerk of the Court
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4 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
5
6 SAN FRANCISCO COUNTY

7 MARK BAKER,

8 Plaintiff,

9 vs.

10 CALIFORNIA DEPARTMENT OF
11 TRANSPORTATION, BAY AREA TOLL
12 AUTHORITY, SAN FRANCISCO BAY
13 CONSERVATION AND DEVELOPMENT
14 COMMISSION, ASSOCIATION OF BAY
15 AREA GOVERNMENTS, ANDREW
16 PREMIER, ALIX BOCKELMAN,
17 LAURENCE NEUMAN, ILLUMINATE, BEN
18 DAVIS, AND DOES 1-20

19 Defendants.

20 ILLUMINATE,

21 Real Part in Interest

Case No.: CPF-26-519519

FIRST AMENDED VERIFIED PETITION
FOR WRIT OF MANDATE AND
COMPLAINT FOR INJUNCTIVE RELIEF

1. Waste of Public Funds (CCP § 526a)
2. Dangerous Condition of Public Property (Gov. Code § 835)
3. Failure to Discharge Mandatory Duty (Gov. Code § 815.6)
4. Public Nuisance (Civil Code §§ 3479, 3480)
5. Traditional Writ of Mandate (CCP § 1085)

DEPT. 301

JUDGE: Hon. Christine Van Aken
HEARING DATE: Not Yet Set

INITIAL FILING: January 20, 2026

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1 **I. INTRODUCTION**

2 1. Plaintiff brings this action to halt the unauthorized, illegal, unsafe, and private
3 installation of the Bay Lights 360 project (Project) on the San Francisco-Oakland Bay
4 Bridge. Defendants have initiated construction and testing in flagrant violation of
5 mandatory state and federal laws. Specifically, the Project was never approved, required
6 permits are missing, and other permits are void.

7 2. Any expenditure of public resources — including staff time, administrative
8 oversight, and the use of state-owned bridge infrastructure — to facilitate this private
9 project without a valid board resolution or legal basis constitutes an illegal gift of public
10 funds under Article XVI, Section 6 of the California Constitution and an illegal waste of
11 funds under CCP § 526a.

12 3. The operation of 24,000 high-intensity Light Emitting Diode (LED) lights on the
13 inward-facing portion of the Bay Bridge constitutes a public safety hazard and no Test Plan
14 with established thresholds of permitted injuries and deaths has been approved by the
15 Federal Highway Administration (FHWA), as required.

16 4. Plaintiff seeks a Writ of Mandate to compel Defendants to perform their ministerial
17 duties to revoke these invalid permits and a Permanent Injunction to restrain the further
18 illegal waste of public resources.

19 **II. PARTIES**

20 5. Plaintiff MARK BAKER is a resident of California. He is also the Founder and
21 President of the Soft Lights Foundation, a registered 501(c)(3) non-profit corporation
22 dedicated to the protection of individuals and the environment from the harms of LED
23 lights. Plaintiff files this complaint In Pro Per.

1 6. Defendant and Real Party in Interest ILLUMINATE (Illuminate) is a California
2 501(c)(3) non-profit corporation. Illuminate is the Project proponent that initiated,
3 advocated for, and funded the Project. Illuminate is also the party carrying out the Project.

4 7. Defendant Ben Davis is the Founder of Illuminate.

5 8. Defendant and Respondent CALIFORNIA DEPARTMENT OF
6 TRANSPORTATION (Caltrans) is a California public agency and is the owner, and is
7 responsible for the maintenance and safety of, the San Francisco-Oakland Bay Bridge.
8 Caltrans is providing staff for the Project.

9 9. Defendant and Respondent BAY AREA TOLL AUTHORITY (BATA) is a public
10 agency, the Lead Agency for the Project, and the sole agency with project approval
11 authority.

12 10. Defendant and Respondent ASSOCIATION OF BAY AREA GOVERNMENTS
13 (ABAG) is a public agency responsible for protection of the San Francisco Bay Estuary.

14 11. Defendant ANDREW FREMIER, is the Executive Director of BATA and ABAG.

15 12. Defendant ALIX BOCKELMAN is the Chief Deputy Director of BATA and
16 ABAG.

17 13. Defendant and Respondent SAN FRANCISCO BAY CONSERVATION AND
18 DEVELOPMENT COMMISSION as a public agency responsible for protection of the San
19 Francisco Bay.

20 14. Defendant LAURENCE NEUMAN (Neuman) is a licensed Professional Engineer
21 (Civil #46024, Traffic #1766) and the principal of NEUMAN ENGINEERING. Neuman is
22 the "Professional in Responsible Charge" of the Project Test Plan as defined by Business &
23 Professions Code § 6703. Plaintiff is informed and believes, and thereon alleges, that

1 Neuman is a private contractor who was retained by the private project proponent, Ben
2 Davis of Illuminate, rather than by a public agency. Neuman is sued in his capacity as a
3 private professional licensee who has assumed a ministerial duty to the public under 16
4 CCR § 475 to certify only those plans that comply with applicable safety laws and federal
5 mandates.

6 15. The Plaintiff does not know the true names and capacities, whether individual,
7 corporate, associate, or otherwise, of Respondents DOE 1 through DOE 20, inclusive, and
8 therefore sue said Defendants and Respondents under fictitious names. Plaintiff will
9 amend this claim to show their true names and capacities when they are known.

10 **III. JURISDICTION AND VENUE**

11 16. This Court has jurisdiction over the matters alleged in this Petition and Complaint
12 pursuant to Code of Civil Procedure § 526a (Waste of Public Funds), Government Code §
13 835 (Dangerous Condition of Public Property), and Code of Civil Procedure § 1085 (Writ
14 of Mandate).

15 17. Venue is proper in the San Francisco Superior Court because the
16 Respondents/Defendants are public agencies and private entities that operate or are
17 carrying out activities in San Francisco County.

18 18. Furthermore, the Project is located on the San Francisco-Oakland Bay Bridge,
19 which is situated within this County. The causes of action alleged herein arose in San
20 Francisco County, and the public safety and environmental impacts of the Project are felt
21 primarily within this jurisdiction.
22

23 **IV. STANDING**

1 19. Plaintiff has standing as a citizen and taxpayer under Code of Civil Procedure §
2 526a to enjoin the illegal expenditure and waste of public funds. Plaintiff is a resident of
3 the State of California and pays taxes, including income and sales taxes, which contribute
4 to the general funds of the State and the specific resources utilized by Defendants Caltrans,
5 BATA, ABAG, and BCDC.

6 20. Plaintiff has a direct interest in ensuring that public infrastructure — specifically the
7 San Francisco-Oakland Bay Bridge — is not utilized for private gain without lawful board
8 authorization, and that public staff time is not wasted on a project that lacks mandatory
9 safety and environmental certifications.

10 21. Plaintiff further has standing as a "beneficially interested" party under Code of Civil
11 Procedure § 1086 to seek a Writ of Mandate. As the President of the Soft Lights
12 Foundation, Plaintiff advocates for individuals whose neurological health and physical
13 safety are directly threatened by the light intensity and "disability glare" from the
14 unauthorized inward-facing LED installation.

15 22. Furthermore, under the "Public Right/Public Duty" exception to the beneficial
16 interest rule, Plaintiff has standing because the object of this action is to procure the
17 enforcement of a public duty — namely, the requirement that public agencies comply with
18 California statutes and regulations, the California Constitution, and Federal Highway
19 Administration safety mandates before authorizing major bridge modifications.

20 V. FACTUAL ALLEGATIONS

21 23. **Bay Lights 360** - The Project in question is called Bay Lights 360 and consists of 48,000
22 blue-rich LED lights which are placed along the San Francisco-Oakland Bay Bridge and
23 which will be animated all night, every night, 365 nights a year. Half of the lights will be

1 facing inward and shining into the eyes of drivers. The FHWA has expressed concern
2 about the safety impacts of these inward-facing lights and has directed Caltrans to develop
3 a Safety Test Plan for FHWA approval. (Declaration of Mark Baker (Decl.), EXHIBIT H.)

4 24. **Illuminate** - Ben Davis is the Founder the private non-profit organization Illuminate. Mr.
5 Davis is paid through his non-profit to dream up projects that use LED lights and to
6 convince government officials and other private parties to fund and install these projects.
7 Illuminate states that the Project is “The brainchild of Illuminate Founder and CEO Ben
8 Davis”

9 25. **Caltrans Transportation Art** – The Project is implemented via the Caltrans
10 Transportation Art Program, which is described in Chapter 29, Section 9 (Landscape
11 Architecture - Transportation Art) of the Caltrans Project Development Procedures Manual
12 (PDPM). The PDPM states "Transportation art is proposed, provided, installed,
13 maintained, and removed or restored by the public agency representing the area in which
14 the art will be installed. The public agency may be a city, county, incorporated town, tribal
15 government or non-federally recognized tribe.". (Decl. EXHIBIT K.)

16 BATA is a State public agency, and Illuminate is a private entity. BATA is a
17 regional toll authority and is not a city, county, or town representing the local community
18 impacted by the art, as required by PDPM Ch 29. On information and belief, no Local
19 “public agency”, as defined in the PDPM for Transportation Art, has proposed, provided,
20 installed, or maintained the Project, in violation of the PDPM requirements for local

21 26. The PDPM states, “Transportation art is **solely funded by the public agency**. All
22 costs for proposed transportation art design, construction, access for maintenance,
23 maintenance, and removal, if required, shall be the responsibility of the public agency and

1 stipulated in detail in the preliminary and final transportation art submittals.” [emphasis
2 added]. The Project has been funded by donations to the private organization Illuminate,
3 not by a local public agency, in violation of the PDPM.

4 27. The PDPM states, “Public agencies seeking approval of transportation art must first
5 submit a preliminary proposal to the Caltrans district transportation art coordinator.” On
6 information and belief, no local public agency has submitted a proposal to Caltrans for the
7 Project.

8 28. The PDPM states, “Prior to final proposal review by Caltrans, the public agency
9 must document local support for the proposal. Working with the district transportation art
10 coordinator, the public agency will determine an appropriate method of public review,
11 ranging from a signed petition to conducting noticed public meetings. The public agency
12 will secure and document public acceptance, ensuring that those most affected have been
13 provided the opportunity to express either support or opposition to the final proposal. After
14 securing public acceptance, the public agency shall issue an adopted resolution or other
15 official document recommending approval of the proposed design of the transportation art
16 and requesting installation within the highway right-of-way.” On information and belief,
17 no public agency has secured and documented public acceptance for the Project, nor issued
18 a resolution recommending approval of the Project.

19 29. The Project involves animated blue-rich “white” LED lights displaying patterns
20 simulating motion, in violation of the PDPM which states, “Proposed transportation art
21 must not include moving elements (kinetic art) or simulate movement.”

22 30. The PDMB states, “The District Director will review the qualified final proposal for
23 public acceptance, compliance with State and federal regulations, and Caltrans’ guidance,

1 adequacy of maintenance resources, and safety and liability issues for Caltrans, the public
2 agency, and the public.” On information and belief, the Caltrans District Director has not
3 complied with this requirement.

4 31. **Caltrans Encroachment Permit** – Caltrans issued an Encroachment Permit for the Project
5 on October 29, 2024. (Decl. EXHIBIT G.) The permit is issued to: “Bay Area Toll
6 Authority C/O: Illuminate the Arts 228 Laidley Street San Francisco, CA 94131 Email:
7 ben@illuminate.org Phone: (415)786-4332”, in violation of the PDPM which details how
8 the Encroachment Permit is issued to a local public agency. The Encroachment Permit was
9 amended on September 24, 2025 to extend the completion date of the project to October
10 29, 2026. (Decl. EXHIBIT B.)

11 32. General Provision 12 of the Caltrans Encroachment Permit states: "This permit is
12 invalidated if the Permittee has not obtained all permits, approvals, and concurrences
13 necessary and required by law." Upon information and belief, the Encroachment Permit is
14 invalidated because no public agency has approved the Project and all permits have not been
15 obtained.

16 33. **CEQA** – The Project must be evaluated under the requirements of the California
17 Environmental Quality Act (CEQA). A CEQA project requires a Lead Agency. Because
18 Caltrans is the owner of the bridge, Caltrans would typically be the Lead Agency.
19 However, Caltrans asserts, without evidence, that BATA is the Lead Agency for the
20 Project. Notwithstanding the administrative or legal difficulties with this assertion, BATA,
21 as the Lead Agency, is required to execute the required CEQA steps which includes
22 environmental determination as one step, and project approval as a second step.
23

1 34. BATA determined that the Project is exempt from CEQA. However, BATA then
2 failed to approve the Project. The BATA Oversight Committee approves CEQA projects
3 via a Resolution. There is no Resolution approving the Project and BATA does not deny
4 this. The response from public records requests indicates that no such project approval
5 exists.

6 35. Despite the lack of a signed and dated project approval document, BATA filed a
7 CEQA Notice of Exemption (NOE) on August 15, 2023, indicating that the Project is a
8 minor alteration to the Bay Bridge. (Decl. EXHIBIT L.) Plaintiff asserts that this NOE is
9 void because an NOE may only be filed AFTER project approval.

10 36. The Project involves 1.8 miles of LED lights which may adversely impact human
11 health and wildlife. Caltrans published a study in April, 2023 titled “Effects of LED
12 Lighting on Terrestrial Wildlife” which indicates that LED lights can adversely impact
13 wildlife. The California Legislature unanimously issued a proclamation identifying
14 October 10 as Blue Light Awareness Day and the proclamation warns of the public health
15 hazards of blue-rich light sources. (Decl. EXHIBIT M.) Plaintiff asserts that these
16 documents and many others indicate that BATA must prepare a CEQA Environmental
17 Impact Report for the Project.

18 37. **NEPA** – The highway that traverses the Bay Bridge is Interstate 80, and thus the Project
19 requires approval under the National Environmental Policy Act. On June 29, 2023,
20 Caltrans issued a CEQA EXEMPTION / NEPA CATEGORICAL EXCLUSION
21 DETERMINATION FORM, stating that the Project is Categorically Exempt. (Decl.
22 EXHIBIT I.) This document is referenced in the Federal Register as Document Number
23 2025-19745. Claims seeking judicial review must be filed by April 2, 2026.

1 38. **BCDC** – The San Francisco Bay Conservation and Development Commission was
2 established to protect the San Francisco Bay. The Project requires a permit from BCDC.
3 On September 7, 2023, BCDC issued Permit Number M2012.009.04. (Decl. EXHIBIT F.)
4 The permit states, “The project therefore involves minor fill in the Bay for improving
5 shoreline appearance that complies with California Code of regulations section 10700 and
6 does not exceed 1,000 square feet, as defined by Commission Regulation 10601(a)(7), and
7 thus, is a “minor repair or improvement” for which the Executive Director may issue a
8 permit, pursuant to Government Code Section 66632(f) and California Code of Regulations
9 Section 10810.” Plaintiff asserts that involves “no fill” at all and thus cannot be
10 categorized as a “minor fill” project, and in addition, Plaintiff asserts that the 1.8-mile
11 Project is not a “minor repair of improvement”.

12 39. The BCDC Permit states that BATA issued an NOE on “June 8, 2012, which found
13 the project categorically exempt from the need to prepare an environmental document
14 under the California Environmental Quality Act (CEQA).” The 2012 NOE issued by
15 BATA was for a different project and is not valid for the Project under consideration.
16 Plaintiff asserts that BCDC may not rely on a 2012 NOE for a different project to
17 determine the environmental impacts of this Project.

18 40. The BCDC Permit section IV-E states, “All required permissions from
19 governmental bodies must be obtained before the commencement of work”. Plaintiff
20 asserts that the BCDC permit is invalidated because the Project has not received all
21 required permissions from governmental bodies, including the BATA Project Approval and
22 the FHWA-approved Test Plan described below.
23

1 41. **Safety Test Plan** – The FHWA issued a Right of Way Use Agreement (RUA) for the
2 Project on October 15, 2024. (Decl. EXHIBIT H.) The RUA states, “Due to safety
3 concerns already articulated to Caltrans, FHWA will not authorize the use of the interior
4 lighs until FHWA has determined the lights can function safely and does not impair the
5 highway or interfere with the free and safe flow of traffic (23 CFR 710.403(b)).”

6 42. The RUA states, “Interior ligh[t]s use (including testing) is not allowed under this
7 approval and will not be permitted until a comprehensive test under an FHWA approved
8 testing plan is completed, and a separate FHWA approval for the use of the interior ligh[t]s
9 is obtained.” And that “Monitoring must include threshold for the termination of use of
10 interior lights if there is an increase of crash rates for serious injury and fatal crashes.”
11 Plaintiff asserts that this FHWA-approved Testing Plan has not been issued and that no
12 injury and fatal crashes “threshold” has been established.

13 A review of the proposed testing plan, referred to as the “Testing Plan and Protocol
14 for Bay Bridge Decorative Lights” by Laurence Neuman of the consulting firm Neuman
15 Engineering, was submitted to Ben Davis of Illuminate on October 25, 2024. (Decl.
16 EXHIBIT E.) It is important to note that this Review was not submitted to government
17 agencies BATA or Caltrans, but directly to the Project artist.

18 43. The 'Testing Plan and Protocol for Bay Bridge Decorative Lights' (Declaration
19 Exhibit E) states, “There is no way to replicate or simulate a meaningful test of 24,000 low-
20 wattage, monochromatic LEDs across 1.8 miles,...”. This statement fails to recognize that
21 photometric computer modeling or ray-tracing simulations are standard industry practice
22 and which can predict glare impacts without physical activation. There is no mention in the
23 Testing Plan of the metric “luminance”, which is the metric for measuring the intensity of

1 the LED lights and the metric used in computer modeling. Plaintiff asserts that a Testing
2 Plan which does not recognize the value of computer modeling and which fails to specify
3 the intensity of the LED light, is defective.

4 44. Instead of computer modeling, the Testing Plan proposes a three-phase 'live
5 experiment' on 125,000 nightly drivers who will be unaware that they are being subjected
6 to a possibly life-threatening live test. The Test Plan Review by Mr. Neuman makes no
7 mention of the FHWA-required "threshold" for acceptable number of injuries and deaths
8 related to the inward facing lights.

9 45. **ABAG** – The Association of Bay Area Governments has a responsibility to protect the Bay
10 Estuary. ABAG and BATA share the same executive staff, Andrew Fremier and Alix
11 Bockelman. However, on belief and information, ABAG has been excluded from
12 participating in this Project. Plaintiff notified ABAG of this exclusion, but received no
13 response.

14 46. **Public Input** – The Project requires the evaluation of public input under the Caltrans
15 Transportation Art Program, BCDC regulations, CEQA, and NEPA. On belief and
16 information, the public has been excluded from commenting on this project and no formal
17 evaluation of public comments has occurred, in violation of the PDPM requirement that the
18 public agency must "ensure that those most affected have been provided the opportunity to
19 express either support or opposition to the final proposal."

20 47. **Willful Disregard and Notice of Personal Liability** - Despite being served with hundreds
21 of formal notices by Plaintiff over several years regarding the specific PDPM, CEQA, and
22 safety violations detailed in the above paragraphs, Defendants Andrew Fremier and Alix
23 Bockelman have willfully disregarded these mandatory legal requirements. They have

1 continued to authorize the expenditure of public resources, staff time, and bridge access to
2 facilitate this unauthorized project for the benefit of a private entity. Consequently, these
3 actions constitute a knowing misappropriation of public resources under California Penal
4 Code § 424, for which these directors bear personal and professional liability.

5
6 **VI. FIRST CAUSE OF ACTION**
7 **(Against Respondents Caltrans, BATA, Andrew Fremier, and Alix**
8 **Bockelman for Waste of Public Funds and Violation of Mandatory Duties)**

9 48. Petitioner incorporates by reference all previous paragraphs as though fully set forth
10 herein.

11 49. **Violation of Ministerial Duties:** Defendants Caltrans and BATA have a mandatory,
12 ministerial duty to comply with the requirements of the Caltrans Project Development
13 Procedures Manual (PDPM). Specifically, Chapter 29, Section 9 mandates that
14 Transportation Art must be:

- 15 • Proposed and sponsored by an eligible local public agency (City, County, or
16 Tribe);
- 17 • Authorized by a formal Board Resolution demonstrating community
18 acceptance; and
- 19 • Solely funded by said public agency.

20 50. **Unauthorized Permit Issuance:** Defendant Caltrans exceeded its authority and abused its
21 discretion by issuing Encroachment Permit No. 04-24-N-AP-1811 to "BATA c/o
22 Illuminate." BATA is not an eligible local agency under the PDPM, and the project is not
23 solely funded by a public agency. Therefore, the Caltrans Encroachment Permit is void as a
matter of law.

1 51. **Violation of Mandatory Public Participation Requirements:** Pursuant to the PDPM
2 Chapter 29, Section 9, a public agency sponsoring Transportation Art must "ensure that
3 those most affected have been provided the opportunity to express either support or
4 opposition to the final proposal." This requirement is intended to ensure "Community
5 Acceptance," which is a mandatory element of the project development process.

6 52. **Failure of Documentation:** Defendants Caltrans and BATA have failed to provide any
7 evidence of a public hearing, community forum, or formal comment period regarding the
8 technical specifics of the Bay Lights 360 project, including receiving public comments on
9 the 24,000 inward-facing LEDs. By bypassing the public, Defendants have silenced the
10 voices of the 125,000 nightly drivers and the local residents most impacted by the increased
11 light intensity and safety risks.

12 53. **Prejudicial Bypass of Accountability:** Because Defendant BATA is a regional toll
13 authority with appointed rather than elected officials, the PDPM's requirement for a Local
14 Board Resolution (from a City or County) is the only mechanism for democratic oversight.
15 By issuing a permit to "BATA c/o Illuminate" without such a resolution, Defendant
16 Caltrans effectively authorized the project to proceed in secret, circumventing the
17 mandatory public input process required by law.

18 54. **Permit Invalidity:** The lack of documented public support or a formal resolution from a
19 local public agency representing the impacted community renders the project's
20 "Community Acceptance" finding false. Consequently, the issuance of Encroachment
21 Permit No. 04-24-N-AP-1811 was based on an incomplete and legally deficient
22 application, making the permit voidable and an abuse of administrative discretion.
23

1 55. **Permit Invalidated via General Provision 12:** Caltrans Encroachment Permit General
2 Provision 12 states that the permit is invalidated if the project has not been approved or if
3 there are missing permits. Since BATA never approved the project and since the mandated
4 FHWA-approved Safety Testing Plan has not been obtained, the Caltrans Encroachment
5 Permit is invalid.

6 56. **Illegal Gift of Public Funds:** Under Article XVI, Section 6 of the California Constitution,
7 public agencies are prohibited from making a gift of public funds or things of value to any
8 private individual or corporation. By dedicating significant public staff time, engineering
9 resources, and bridge access to a \$14,000,000 private project owned and operated by Real
10 Party in Interest Illuminate, without a formal resolution or public benefit finding,
11 Defendants BATA, Caltrans, Andrew Fremier, and Alix Bockelman have engaged in an
12 illegal gift of public resources.

13 57. **Waste of Taxpayer Resources (CCP § 526a):** Defendants Fremier and Bockelman have
14 authorized the expenditure of public funds and resources for a project they knew was
15 procedurally defective and lacked the required legal authorizations. This constitutes a waste
16 of public funds and a misappropriation of resources under California Penal Code § 424.

17 58. **Lack of Adequate Remedy:** Plaintiff has no plain, speedy, and adequate remedy in the
18 ordinary course of law. Unless the Court issues a Writ of Mandate commanding
19 Defendants to set aside the Encroachment Permit and cease all unauthorized expenditures,
20 Plaintiff and the public will suffer irreparable harm through the continued illegal waste of
21 public assets and the creation of a public safety hazard.

22
23 **VII. SECOND CAUSE OF ACTION**

1 63. **Prejudicial Abuse of Discretion:** Defendants have failed to proceed in a manner required
2 by law. Their actions in bypassing public comment and environmental scrutiny are
3 arbitrary, capricious, and a prejudicial abuse of discretion.
4

5 **VIII. THIRD CAUSE OF ACTION**
6 **(Against Respondent BCDC for Failure to Comply with BCDC**
7 **Regulations)**

8 64. **Misclassification of Project:** BCDC Permit Number M2012.009.04 states “The project
9 therefore involves minor fill in the Bay for improving shoreline appearance that complies
10 with California Code of Regulations §10700 and does not exceed 1,000 square feet, as
11 defined by Commission Regulation § 10601(a)(7), and thus, is a “minor repair or
12 improvement” for which the Executive Director may issue a permit, pursuant to
13 Government Code Section 66632(f) and California Code of Regulations § 10810.”

14 65. Permit M2012.009.04 was issued based on the false premise that the Project
15 constitutes "minor fill" and that the Project is a “minor repair of improvement”. Plaintiff
16 asserts that there is no fill at all, and thus BCDC has misclassified the project, and that the
17 addition of 1.8 miles of 48,000 animated blue-rich LED lights does not constitute “minor
18 repair or improvement.”

19 66. **Reference to Expired and Invalid NOE:** Furthermore, the BCDC permit improperly
20 relies on a 2012 NOE that was issued for a different, expired project. By relying on a
21 decade-old environmental determination for a "new and distinct" \$14,000,000 project,
22 Defendants have bypassed the mandatory environmental safeguards designed to protect the
23 San Francisco Bay.

1 67. **Permit Is Invalid Due to Unapproved Project and Missing Permits:** BCDC Permit
2 Section IV-E states that the permit is invalidated if the Permittee has not obtained all
3 required governmental approvals. Because BATA has failed to issue a formal Project
4 Approval, since no Local Public Agency has issued a Resolution for the Project, and since
5 Caltrans has not secured a valid FHWA-approved Test Plan, the BCDC permit is invalid.

6 68. **Prejudicial Harm:** Petitioner and the public are irreparably harmed by Respondent
7 BCDC's failure to follow its mandatory permit procedures. By bypassing a "Major Permit"
8 process, BCDC has prevented any meaningful public review of the environmental and
9 safety impacts of 48,000 animated LEDs. This administrative shortcut directly results in the
10 creation of a public safety hazard—specifically "disability glare" for motorists—and
11 potential environmental damage to the Bay's wildlife, with no adequate remedy at law
12 other than the immediate intervention of this Court

13
14 **IX. FOURTH CAUSE OF ACTION**
15 **(Against Respondents Caltrans and Illuminate for Violation of Federal**
16 **Safety Mandates and Public Nuisance)**

17 69. Petitioner incorporates by reference all previous paragraphs as though fully set forth
18 herein.

19 70. Caltrans and Illuminate are "carrying out" the project, with actual construction,
20 testing of the lights, and supervision.

21 71. **Violation of FHWA Right of Way Use Agreement (RUA):** The FHWA RUA issued on
22 October 15, 2024, explicitly prohibits the use or testing of interior lights until a
23 "comprehensive test under an FHWA approved testing plan is completed." By failing to
establish a "threshold" for the termination of use in the event of serious injury or fatal

1 crashes and testing the lights without this threshold, Defendants have breached the
2 mandatory safety conditions of the RUA.

3 72. **Failure of Ministerial Oversight:** The "Safety Test Plan" review by Neuman Engineering
4 was submitted directly to the private entity (Illuminate) rather than to the public agencies
5 (BATA/Caltrans). This represents a total abdication of the Caltrans District Director's
6 ministerial duty under the PDPM to review the proposal for "safety and liability issues for
7 Caltrans, the public agency, and the public."

8 73. **Public Nuisance:** The activation of 24,000 inward-facing, blue-rich LED lights without a
9 valid safety threshold or scientifically sound testing protocol constitutes a public nuisance.
10 It threatens the safety of a considerable number of persons (over 125,000 drivers nightly)
11 by interfering with the safe and free flow of traffic on an Interstate Highway.

12 74. **Permittee Requirements:** The Caltrans Encroachment Permit was issued to "BATA c/o
13 Illuminate", rather than a Local Public Agency. As the permit is written, Illuminate is the
14 entity carrying out the Project and thus must comply with all applicable federal laws,
15 including the FHWA Safety Test Plan requirements.

16 75. **Irreparable Harm and Imminent Danger to Life:** Petitioner and the motoring public
17 face an immediate and grave risk of injury or death due to Defendants' failure to comply
18 with federal safety mandates. By activating 24,000 high-intensity inward-facing LEDs
19 without the mandatory FHWA-approved Safety Thresholds for injury and death,
20 Defendants are conducting a "live experiment" on 125,000 nightly drivers. The resulting
21 "disability glare" and neurological distractions are not merely inconveniences; they are
22 physical hazards that increase the likelihood of catastrophic traffic collisions on the Bay
23 Bridge. Monetary damages cannot compensate for the loss of life or limb that will occur if

1 this Court does not intervene to stay the testing until the mandatory safety protocols are
2 established and approved.

3
4 **X. FIFTH CAUSE OF ACTION**
5 **(Against Defendants Laurence Neuman and Neuman Engineering)**

6 76. Petitioner incorporates by reference all previous paragraphs as though fully set forth
7 herein.

8 77. **Live Testing vs. Computer Modeling:** Industry standards for large-scale LED
9 installations require photometric computer modeling and ray-tracing to predict glare. The
10 Neuman Test Plan's dismissal of these tools in favor of a "live experiment" on an
11 unsuspecting public constitutes an arbitrary and capricious departure from standard
12 engineering practices, creating an unreasonable risk of "disability glare" for motorists.

13 78. **Missing Thresholds:** The FHWA requires the Safety Testing Plan to contain a threshold
14 for the number of injuries and deaths that are acceptable before the inward-facing lights are
15 deemed too dangerous. Plaintiff asserts that Laurence Neuman's failure to address this
16 threshold limit in is review of the Safety Testing Plan constitutes Professional Negligence.

17 79. **Imminent Physical Harm and Professional Breach:** As the "Professional in Responsible
18 Charge," Respondent Neuman has a ministerial duty under 16 CCR § 475 to certify only
19 those plans that comply with safety mandates. By certifying a plan that lacks mandatory
20 FHWA safety thresholds and relies on "live testing" rather than predictive modeling,
21 Defendant Neuman has directly created a condition where the motoring public—including
22 Plaintiff—is placed in imminent danger of "disability glare" and catastrophic traffic
23

1 collisions. This breach of professional duty makes physical injury or death not just
2 possible, but a foreseeable result of the unauthorized testing.

3
4 **XI. SIXTH CAUSE OF ACTION**
5 **(Against Defendants Caltrans and Illuminate for Public Nuisance [Civil**
6 **Code §§ 3479, 3480])**

7 80. Petitioner incorporates by reference all previous paragraphs as though fully set forth
8 herein.

9 81. **Creation of a Public Nuisance:** Pursuant to Civil Code § 3479, a nuisance is anything
10 which is "injurious to health... or an obstruction to the free use of property, so as to
11 interfere with the comfortable enjoyment of life or property." Plaintiff asserts that the
12 installation and proposed activation of 24,000 inward-facing, blue-rich LED lights on the
13 Bay Bridge constitutes a public nuisance because it creates a significant safety hazard
14 (disability glare) for the public traveling on an Interstate highway.

15 82. **Interference with Public Rights:** Under Civil Code § 3480, a public nuisance is one
16 which "affects at the same time an entire community or neighborhood, or any considerable
17 number of persons." The Project directly impacts over 125,000 motorists nightly. The
18 threat of "disability glare" and the resulting potential for fatal or serious injury crashes
19 interferes with the public's collective right to safe passage on the State Highway System.

20 83. **Documented Hazard:** The nuisance is not speculative. The FHWA Right of Way Use
21 Agreement (RUA) explicitly identifies "safety concerns" regarding the interior lights and
22 mandates a testing plan that monitors for an "increase of crash rates for serious injury and
23 fatal crashes." By proceeding without an established safety threshold or a scientifically

1 valid test plan, Defendants Caltrans and Illuminate are knowingly creating a condition that
2 is "injurious to health" and "offensive to the senses" of motorists.

3 84. **Lack of Statutory Authorization:** While the Project is being conducted under a Caltrans
4 permit, Civil Code § 3482 (which states that nothing done under the express authority of a
5 statute can be deemed a nuisance) does not apply here. The permit was issued in violation
6 of the PDPM, without a local board resolution, and without the safety clearances required
7 by federal law. Therefore, the Project is not "expressly authorized" by valid legal
8 procedures and remains subject to nuisance claims.

9 85. **Irreparable Harm:** Unless enjoined by this Court, the activation of the Project will create
10 an immediate and ongoing danger to public safety. The "live experiment" proposed in the
11 Neuman Test Plan treats the safety of the community as a variable, which is an
12 unreasonable and illegal interference with the public's use of the Bay Bridge.

13
14 **XII. SEVENTH CAUSE OF ACTION**
15 **(Against Respondent Caltrans for Violation of the Encroachment Permit**
16 **Omnibus [Streets & Highways Code § 670 et seq.]**

17 86. Petitioner incorporates by reference all previous paragraphs as though fully set forth
18 herein.

19 87. **Statutory Authority and Limitations:** Under Streets and Highways Code § 670, Caltrans
20 has the authority to issue encroachment permits for specific purposes. However, this
21 authority is not absolute and must be exercised in accordance with the department's own
22 governing regulations and manuals, specifically the Project Development Procedures
23 Manual (PDPM), which carries the force of law in administrative proceedings.

1 88. **Issuance to Ineligible Entity:** The PDPM Chapter 29, Section 9, promulgated under the
2 authority of the Streets and Highways Code, strictly mandates that a Transportation Art
3 permit be issued to a "local public agency" representing the community. By issuing
4 Encroachment Permit No. 04-24-N-AP-1811 to "BATA c/o Illuminate", Caltrans has
5 bypassed the statutory requirement for local governmental accountability and has
6 effectively issued a permit to a private entity (Illuminate) and a regional agency (BATA)
7 that lacks the required local jurisdictional sponsorship.

8 89. **Void for Failure to Meet Mandatory Prerequisites:** An encroachment permit issued in
9 violation of mandatory administrative procedures is void. Specifically:

- 10 • **Missing Local Resolution:** The failure to obtain a Board Resolution as required by the
11 PDPM is a violation of the "Community Acceptance" prerequisite for a valid permit
12 under Streets and Highways Code § 670.
- 13 • **Unauthorized "C/O" Permittee:** The Streets and Highways Code does not authorize
14 Caltrans to act as a conduit for private commercial or artistic interests through "care of"
15 permit arrangements that circumvent public agency sponsorship.

16 90. **Abuse of Mandatory Duty:** Caltrans has a ministerial duty to deny any permit application
17 that does not meet the criteria set forth in its own manuals. By issuing the permit despite
18 the clear absence of a local agency applicant and a board resolution, Caltrans has
19 committed a prejudicial abuse of discretion.

20 91. **Request for Cancellation:** Because the permit was issued in direct contravention of the
21 Omnibus provisions of the Streets and Highways Code and the governing PDPM, it is
22 invalid and must be canceled by order of this Court.
23

1 **XI. PRAYER FOR RELIEF**

2 **WHEREFORE, Plaintiff prays for judgment against Defendants/Respondents as**
3 **follows:**

- 4 1. **For a Peremptory Writ of Mandate** directing Respondent Caltrans to vacate, set aside,
5 and cancel Encroachment Permit No. 04-24-N-AP-1811 and any related amendments, on
6 the grounds that the permit was issued in violation of mandatory PDPM procedures and
7 the Streets and Highways Code;
- 8 2. **For a Preliminary and Permanent Injunction** restraining and enjoining Defendants
9 BATA, Andrew Fremier, and Alix Bockelman from authorizing, and Real Party in
10 Interest Illuminate from performing, any further installation, testing, or activation of the
11 Bay Lights 360 project until such time as all mandatory legal requirements, including a
12 local public agency resolution, a notarized copyright transfer, a valid public agency
13 sponsorship, and a legal funding mechanism consistent with the mandatory “solely
14 funded” requirements of the PDPM, are strictly satisfied;
- 15 3. **For a Declaration** that the "BATA c/o Illuminate" permit structure is unauthorized by
16 law and constitutes an illegal gift of public resources and a waste of taxpayer funds under
17 CCP § 526a and Article XVI, Section 6 of the California Constitution;
- 18 4. **For a Permanent Injunction** enjoining the activation of any inward-facing lights on the
19 San Francisco-Oakland Bay Bridge until: (a) a neutral, third-party engineering firm
20 conducts a comprehensive photometric ray-tracing simulation proving that the lights do
21 not create "disability glare" or other safety hazards for motorists; and (b) the Defendants
22 secure a formal, written FHWA-approved Test Plan that includes the mandatory safety
23

1 thresholds for the termination of use in the event of increased crash rates, as required by
2 the October 15, 2024, Right of Way Use Agreement;

3 5. **For an Order** vacating the CEQA Notice of Exemption (NOE) and the NEPA
4 Categorical Exclusion, and requiring a full Environmental Impact Report (EIR) and
5 Environmental Assessment (EA) that specifically evaluates the impacts of blue-rich LED
6 light on human health and local wildlife;

7 6. **For Costs of Suit** incurred herein;

8 7. **For such other and further relief** as the Court deems just and proper.

9
10 **VERIFICATION I**, Mark Baker, declare under penalty of perjury under the laws of the
11 State of California that I have read the foregoing Petition and the facts stated therein are
12 true of my own knowledge. Executed on January 27, 2026.

13
14 Respectfully Submitted,

15 By: /s/ Mark Baker
16 In Pro Per
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23

PROOF OF SERVICE

**Mark Baker v. California Department of Transportation
Superior Court of the State of California – County of San Francisco
Case No. CPF-26-519519**

Electronic Service in accordance with California Code of Civil Procedure Section § 1010.6.

At the time of service, I was over 18 years of age. My residence or business address is 1520 E. Covell Blvd. Suite 5 - 467, Davis, CA 95616.

On January 27, 2026, I electronically served a true copy of the following documents described as:

- 1. FIRST AMENDED VERIFIED COMPLAINT FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE RELIEF**
- 2. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE**
- 3. NOTICE OF EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION**
- 4. DECLARATION OF MARK BAKER IN SUPPORT OF EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER**
- 5. [PROPOSED] ORDER GRANTING EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE**
- 6. UNSIGNED PROOF OF SERVICE**

on the parties in this action as follows:

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BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document to be sent from the e-mail address mbaker@softlights.org to the persons at the email addresses listed above.

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

Executed on January 27, 2026



Mark Baker