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County of Santa Barbara  
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF SANTA BARBARA**

**Anacapa Division**

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

SOUTHERN CALIFORNIA EDISON  
COMPANY,

Defendant.

Case No.: 20CV04002

**FIRST AMENDED COMPLAINT FOR  
CIVIL PENALTIES, INJUNCTION,  
AND OTHER RELIEF**

(Fish & Game Code, §§ 1615, 5650.1;  
Santa Barbara County Ordinance, § 14-34;  
Bus. & Prof. Code, § 17200 *et seq.*)

Plaintiff, The People of the State of California, allege the following based on  
information and belief.

**PLAINTIFF**

1. The People bring this action by and through Joyce E. Dudley, District Attorney  
of Santa Barbara County, in the public interest in the name of the People of the State of  
California (hereinafter “Plaintiff”), for the purpose of protecting the public health, safety, and  
welfare.

2. Pursuant to California Fish and Game Code sections 1615 and 5650.1, a District  
Attorney may bring an action in the name of the People of the State of California for civil

1 penalties and injunctive relief for violations of Fish and Game Code sections 1602 and 5650,  
2 respectively.

3 3. Pursuant to Santa Barbara County Ordinance section 14-34(b), the District  
4 Attorney may apply to the superior court for orders enjoining practices in violation of Chapter  
5 14 of the County Ordinance.

6 4. Pursuant to California Business and Professions Code Sections 17203, 17204,  
7 and 17206, a District Attorney may bring an action in the name of the People of the State of  
8 California for civil penalties and injunctive relief against any person who engages, has engaged,  
9 or proposes to engage in unfair competition.

10 5. By this action, Plaintiff seeks to enjoin Defendant from engaging in unlawful,  
11 unfair, or fraudulent business acts and practices alleged herein and from violating the laws and  
12 regulations related to land grading, water pollution, stream alteration, and wildlife harm.

13 6. The actions of Defendant as set forth below are in violation of the laws and  
14 public policies of the State of California, and as such are inimical to the health, safety, rights,  
15 and interests of the general public.

16 7. Plaintiff brings this action without prejudice to any other action or claim which  
17 Plaintiff may have based on separate, independent, and unrelated violations arising out of  
18 matters or allegations that are not set forth in this First Amended Complaint.

19 **JURISDICTION AND VENUE**

20 8. The activities and conditions constituting violations of state law alleged herein  
21 occurred in the County of Santa Barbara.

22 9. This Court has jurisdiction pursuant to Article 6, section 10 of the California  
23 Constitution, and sections 393 and 395.5 of the Code of Civil Procedure.

24 10. Venue is proper in this county pursuant to Business and Professions Code section  
25 17204.

26 11. Venue is proper in this division of the Superior Court because the alleged  
27 violations occurred in the unincorporated area of Mission Canyon, located in close proximity to  
28 the City of Santa Barbara.

1 **DEFENDANT**

2 12. Defendant Southern California Edison Company (“SCE”) is a California  
3 Corporation registered with the California Secretary of State. At all relevant times, SCE did  
4 business in Santa Barbara County.

5 13. Whenever this First Amended Complaint references any act of Defendant, such  
6 allegation shall be deemed to mean that Defendant and its officers, agents, employees, or  
7 representatives, did or authorized acts while actively engaged in the management, direction, or  
8 control of the affairs of said Defendant, and while acting within the course and scope of their  
9 duties. When reference is made herein to any act or omission of a Defendant, such allegation  
10 shall include the act or omission of the owners, officers, directors, employees, and  
11 representatives of such Defendant, and each of them, engaged in said acts or omissions.

12 **GENERAL ALLEGATIONS**

13 14. Starting on or about December 4, 2019, SCE engaged in maintenance work and  
14 road widening (the “Work”) on Spyglass Ridge Road, adjacent to and overlooking Mission  
15 Creek and its tributaries. SCE performed the Work without obtaining permits or approvals from  
16 the County of Santa Barbara or the California Department of Fish and Wildlife (“CDFW”).

17 15. The Work consisted of road grading and widening, including scaling (removing)  
18 rock on the uphill side of Spyglass Ridge Road, grading the road surface, removing vegetation,  
19 and grading the berms on the downhill side of the Road.

20 16. To perform the Work, SCE used large construction equipment, including an  
21 excavator, a small motor grade, and a bulldozer.

22 17. The Work occurred over approximately 1.6 miles of Spyglass Ridge Road,  
23 commencing at the Inspiration Point Trailhead where Spyglass Road branches toward the  
24 northeast from Tunnel Road (the “Impacted Area”) (Attachment 1). The Impacted Area is  
25 frequently used by hikers wishing to access several popular trails: Inspiration Point Trail,  
26 Jesusita Trail, Tunnel Connector Trail, Mission Canyon Catway, and Cathedral Peak Trail.

27 18. The Work generated a significant amount of rock, sediment, and debris  
28 (“sidecast”) that SCE discharged down the slopes into Mission Creek and its tributaries. In

total, the Work generated approximately 4,778.4 cubic yards (965,112.69 gallons) of sidecast. Of this, approximately 366.6 cubic yards (74,043.68 gallons) were discharged into Waters of the United States, and 2,583.3 cubic yards (521,759.5 gallons) were discharged into Waters of the State of California.

19. On or about December 16, 2019, the Work ceased upon orders from CDFW.

20. The unlawful Work SCE conducted resulted in multiple significant environmental harms, including:

- a. Damage to, and potential loss of numerous rare plants,<sup>1</sup> including: Santa Barbara Honeysuckle, Plummer's Baccharis, Hubby's Phacelia, and Coastal Sage Scrub Oak;
- b. Loss of individual trees, including: Coast Live Oak, Bay Laurel, and Western Sycamore;
- c. Loss of habitat, or habitat degradation, for rare plants, including: Santa Barbara Honeysuckle, Plummer's Baccharis, Hubby's Phacelia, and Coastal Sage Scrub Oak;
- d. Likely loss of individual Coast Range Newts due to crushing by debris;
- e. Loss of habitat for the Coast Range Newt and Two-Striped Gartersnake;
- f. Reduced nesting habitat for the following bird species: Northern Flicker, Nuttall's Woodpecker, California Scrub Jay, California Towhee, Yellow-Rumped Warbler, Cooper's Hawk, Bewick's Wren, and Mourning Dove
- g. Potential for further erosion and habitat loss in the Impacted Area;
- h. Potential for increase in non-native, invasive species in the Impacted Area;
- i. Potential for movement of sidecast debris within Mission Creek and its tributaries, altering the stream and partially obstructing the water flow.

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<sup>1</sup> As used in this Complaint, the term "rare plant" refers to a plant native to the Santa Barbara region that is listed on the California Rare Plant Ranks List published by the California Department of Fish and Wildlife. *See* California Natural Diversity Database (CNDDB). September 2020. Special Vascular Plants, Bryophytes, and Lichens List. California Department of Fish and Wildlife. Sacramento, CA.

j. Permanent changes to the natural environment in the Impact Area due to large amounts of material being carved out of the mountainside.

21. Due to the large volume of sidecast and the large size of some of the rocks deposited in Mission Creek and its tributaries, some of the sidecast may not be removable without causing further damage. As a result, some of the environmental harm is likely permanent.

22. In addition to environmental harm, during and immediately after the Work was conducted, SCE's Work threatened the safety of Santa Barbara residents who recreate in the Impacted Area due to potential rock-fall and debris.

23. SCE's misconduct also caused substantial recreational harm to residents by forcing numerous trail closures for SCE to perform remediation and rock-fall stabilization work. Further, the Work degraded the aesthetics of Mission Canyon through the loss of natural vegetation and mountainside, and it necessitated the placement of permanent rock-fall prevention netting over a large portion of the cliff face overlooking Mission Creek.

### **FIRST CAUSE OF ACTION**

#### **Unlawful Streambed Alteration**

##### **Fish and Game Code sections 1602(a) and 1615(a)**

24. Plaintiff realleges paragraphs 1 to 23, inclusive.

25. Section 1602(a) provides, in pertinent part:

An entity shall not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake ... unless all of the following occur:

(1) The [D]epartment [of Fish and Wildlife ("Department")] receives written notification regarding the activity in the manner prescribed by the [D]epartment ...

(2) The [D]epartment determines the notification is complete ...

(3) The entity pays the applicable fees ... [and]

(4) One of the following occurs:

1 (A)(i) The [D]epartment informs the entity, in writing, that the  
2 activity will not substantially adversely affect an existing fish or  
3 wildlife resource, and that the entity may commence the activity  
without an agreement ...

4 (B) The [D]epartment determines that the activity may substantially  
5 adversely affect an existing fish or wildlife resource and issues a final  
6 agreement [called a Lake and Streambed Alteration Agreement, or  
7 "LSA Agreement"] to the entity that includes reasonable measures  
necessary to protect the resource, and the entity conducts the activity  
in accordance with the agreement.

8 (C) A panel of arbitrators issues a final agreement to the entity in  
9 accordance with subdivision (b) of Section 1603, and the entity  
conducts the activity in accordance with the agreement. [or]

10 (D) The [D]epartment does not issue a draft agreement to the entity  
11 within 60 days from the date notification is complete, and the entity  
conducts the activity as described in the notification[.]

12  
13 26. Defendant violated section 1602(a) by substantially diverting or obstructing the  
14 natural flow of water from, or substantially changing or using a material from the bed, channel,  
15 or bank of a stream without notifying the Department and without an LSA Agreement.

16 27. Based on the above, Plaintiff requests injunctive relief under section 1615(e) and  
17 civil penalties under section 1615(a), as set forth in Plaintiff's prayer for relief.

18 **SECOND CAUSE OF ACTION**

19 **Water Pollution**

20 **Fish and Game Code sections 5650(a)(6) and 5650.1(a)**

21 28. Plaintiff realleges paragraphs 1 to 23, inclusive.

22 29. Section 5650(a)(6) provides, in relevant part: "it is unlawful to deposit in, permit  
23 to pass into, or place where it can pass into the waters of this state ... Any substance or material  
24 deleterious to fish, plant life, mammals, or bird life."

25 30. Defendant violated section 5650(a)(6) by depositing or permitting to pass into, or  
26 placing where it can pass into the waters of this state, substances and materials that are  
27 deleterious to fish, plant life, mammals, or birdlife.

31. Based on the above, Plaintiff requests injunctive relief under section 5650.1(e) and civil penalties under section 5650.1(a) and (i), as set forth in Plaintiff's prayer for relief.

### **THIRD CAUSE OF ACTION**

#### **New Grading Causing Significant Environmental Impact**

##### **Santa Barbara County Ordinance section 14-6**

32. Plaintiff realleges paragraphs 1 to 23, inclusive.

33. In relevant part, Santa Barbara County Ordinance section 14-6 provides that "no person shall cause or allow a significant environmental impact to occur as a result of new grading as defined herein, including grading that is otherwise exempt from these regulations."

34. Defendant violated Santa Barbara County Ordinance section 14-6 by grading the Impacted Area in a manner that deposited significant amounts of rock, sediment, and debris in Mission Creek and its tributaries, altering the geology of the Impacted Area and causing harm to plant and animal life, which thereby constitutes a significant environmental impact.

35. Based on the above, Plaintiff requests injunctive relief under Santa Barbara County Ordinance section 14-34, as set forth in Plaintiff's prayer for relief.

### **FOURTH CAUSE OF ACTION**

#### **Unfair Competition**

##### **Business and Professions Code sections 17200 *et seq.***

36. Plaintiff realleges paragraphs 1 to 35, inclusive.

37. Pursuant to Business and Professions Code section 17206, Defendant is liable for civil penalties for each and every separate act of unfair competition as alleged herein. The unlawful business practices committed by the Defendant includes, but is not limited to:

- a. Violating Fish and Game Code section 1602(a), as set forth in the First Cause of Action above;
- b. Violating Fish and Game Code section 5650(a)(6), as set forth in the Second Cause of Action above;
- c. Violating Santa Barbara County Ordinance section 14-6, as set forth in the Third Cause of Action above;

- 1 d. Violating Fish and Game Code section 5652(a), by depositing, permitting  
2 to pass into, or placing where it can pass into the waters of the state, or to  
3 abandon, dispose of, or throw away, within 150 feet of the high water mark  
4 of the waters of the state, any garbage, rubbish, litter, refuse, waste, or  
5 debris;
- 6 e. Violating Fish and Game Code section 5948, by causing, having caused, or  
7 permitting to exist any log jam or debris accumulation or any other  
8 artificial barrier, except a dam for the storage or diversion of water, public  
9 bridges and approaches thereto, groins, jetties, seawalls, breakwaters,  
10 bulkheads, wharves and piers permitted by law, and debris from mining  
11 operations, in any stream in this State, which will prevent the passing of  
12 fish up and down stream or which is deleterious to fish;
- 13 f. Violating Water Code section 13376, by discharging pollutants to the  
14 navigable waters of the United States and within the jurisdiction of the  
15 State of California without filing a report of the discharge in compliance  
16 with the procedures set forth in Water Code section 13260; and
- 17 g. Violating Water Code section 13387, by knowingly or negligently  
18 discharging a pollutant into the waters of the United States and within the  
19 jurisdiction of the State of California without a permit, in violation of  
20 section 301 of the Federal Clean Water Act (33 U.S.C. § 1311(a)).

21 38. Each and every separate act constitutes an unlawful business practice. Each day  
22 that Defendant has engaged in each separate unlawful act, omission, or practice is a separate and  
23 distinct violation of Business and Professions Code section 17200.

24 39. Pursuant to Business and Professions Code section 17206, Defendant is liable for  
25 civil penalties for each and every separate act of unfair competition as alleged herein.

26 40. Defendant must be enjoined, pursuant to Business and Professions Code section  
27 17203, from engaging in acts or practices that, as alleged in this First Amended Complaint,  
28 violate the Fish and Game Code and the Santa Barbara County Ordinance, which thereby



1 constitute unfair competition within the meaning of Business and Professions Code section  
2 17200.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays for judgment as follows:

5 1. Against Defendant and its employees, agents, representatives, successors, and all  
6 persons, corporations, or other entities acting under, by, or on behalf of Defendant, or acting in  
7 concert or participation with or for Defendant, a permanent injunction requiring them to comply  
8 with those provisions of the Fish and Game Code which Defendant is alleged to have violated in  
9 this First Amended Complaint;

10 2. Against Defendant and its employees, agents, representatives, successors, and all  
11 persons, corporations, or other entities acting under, by, or on behalf of Defendant, or acting in  
12 concert or participation with or for Defendant, a permanent injunction under Business and  
13 Professions Code section 17203 prohibiting them from engaging in activity that violates the  
14 Fish and Game Code sections, and Santa Barbara County Ordinance section, which Defendant  
15 is alleged to have violated in this First Amended Complaint, which thereby constitute unfair  
16 competition within the meaning of Business and Professions Code section 17200;

17 3. Against Defendant and its employees, agents, representatives, successors, and all  
18 persons, corporations, or other entities acting under, by, or on behalf of Defendant, or acting in  
19 concert or participation with or for Defendant, an injunction under Fish and Game Code  
20 sections 1615 and 5650.1, and Business and Professions Code 17203, requiring them to perform  
21 remediation and restoration to the Impacted Area Defendant harmed, including but not limited  
22 to Mission Creek;

23 4. Against Defendant, for each violation of Fish and Game Code section 1602, civil  
24 penalties under Fish and Game Code section 1615(a) in an amount not to exceed \$25,000,  
25 subject to proof;

26 5. Against Defendant, for each violation of Fish and Game Code section 5650, civil  
27 penalties under Fish and Game Code section 5650.1(a) in an amount not to exceed \$25,000,  
28 subject to proof, and civil penalties under Fish and Game Code section 5650.1(i) of not more

1 than ten dollars (\$10) for each gallon or pound of material discharged that is not recovered and  
2 properly disposed of by Defendant, subject to proof;

3 6. Civil penalties against Defendant, pursuant to Business and Professions Code  
4 section 17206, for each act of unfair competition engaged in by Defendant, in an amount not to  
5 exceed \$2,500, according to proof.

6 7. For investigative, enforcement, and litigation costs incurred by Plaintiff and the  
7 investigating agencies.

8 8. For such other and further relief to the Plaintiff and investigating agencies as the  
9 nature of the case may require and that the Court deems proper to fully dissipate the effects of  
10 the unlawful and unfair acts complained of herein.

11  
12 Respectfully Submitted,  
13 JOYCE E. DUDLEY  
14 District Attorney  
County of Santa Barbara

15  
16 DATED: December 3, 2020

By: Morgan S. Lucas

17 MORGAN S. LUCAS  
18 Deputy District Attorney

19  
20 DATED: December 3, 2020

By: Christopher B. Dalbey

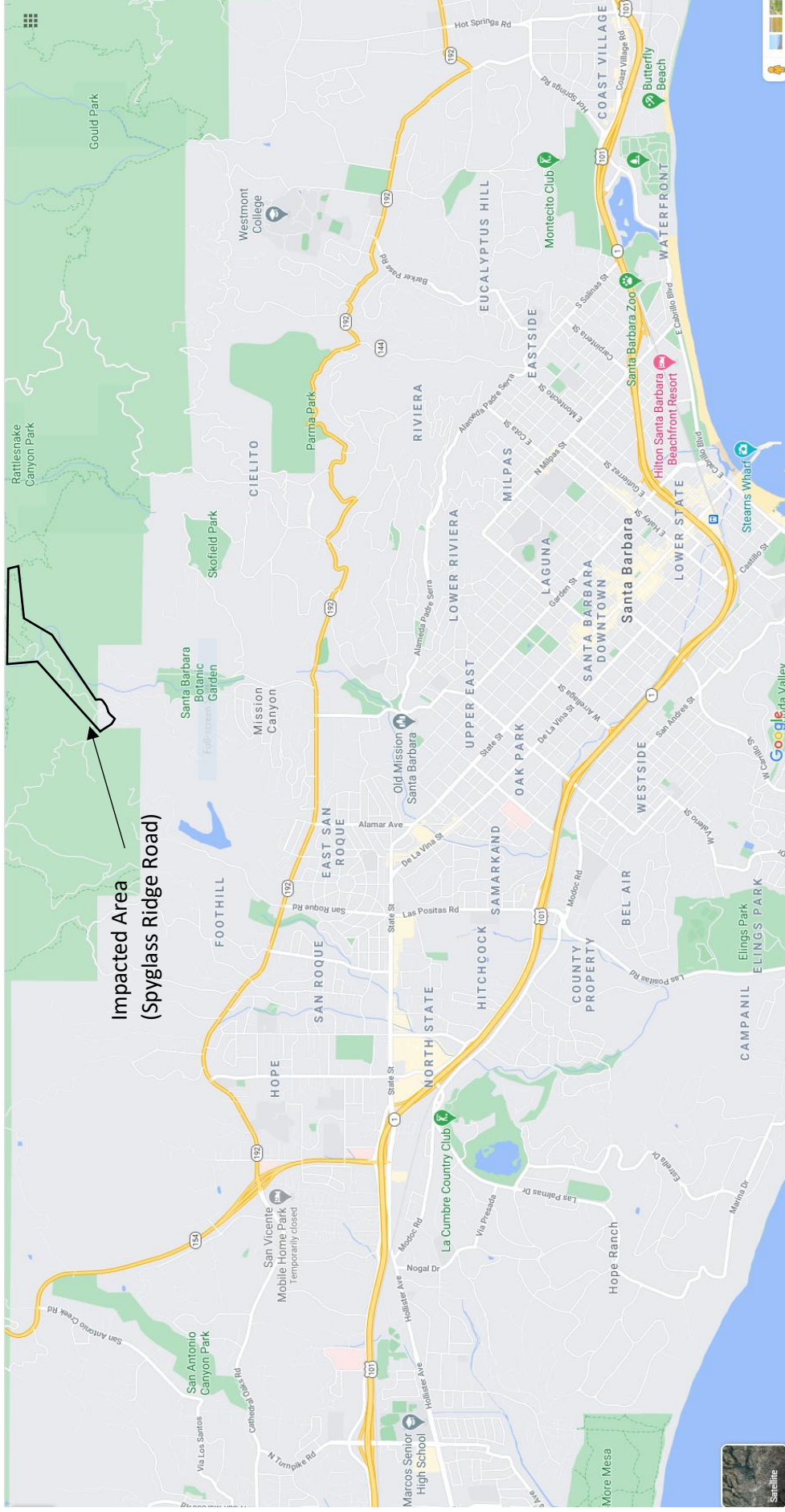
21 CHRISTOPHER B. DALBEY  
22 Deputy District Attorney

23 Attorneys for Plaintiff, People of the State of  
24 California

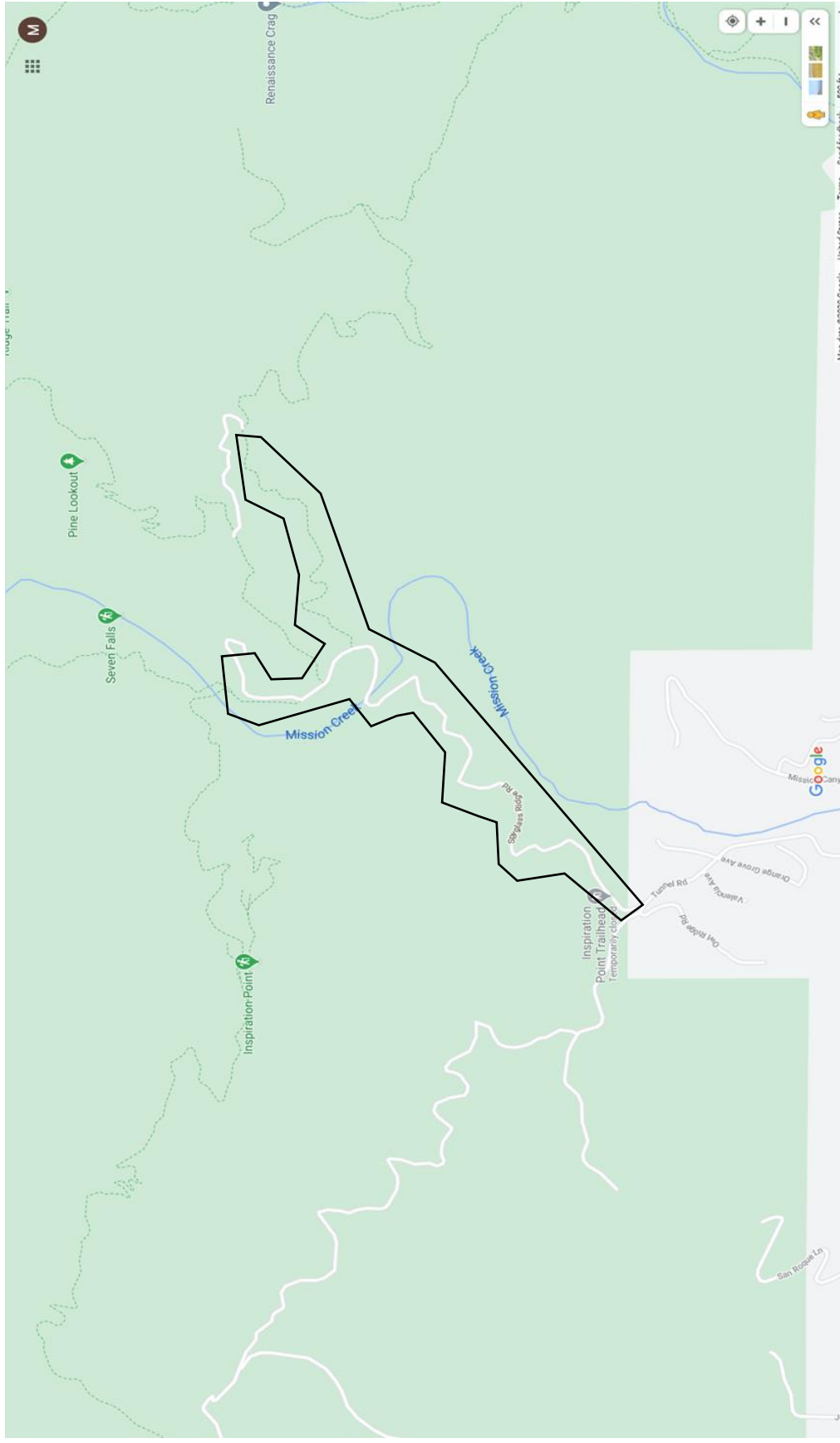
# **First Amended Complaint**

## **Attachment 1**

Attachment 1 to Complaint  
People v. Southern California Edison Company  
20CV04002



## Detailed View of Impacted Area



Note: Maps of the Impacted Area for Informational Purposes only. The boundaries above are not drawn to scale.