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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF TULARE

THE PEOPLE OF THE STATE OF CALIFORNIA, ex rel. ATTORNEY GENERAL EDMUND G. BROWN JR., Petitioners, v. COUNTY OF TULARE, TULARE COUNTY BOARD OF SUPERVISORS Respondents. SAM ETCHEGARAY, ETCHEGARAY DAIRIES, Real Parties in Interest.	Case No.: **PETITION FOR WRIT OF MANDATE** **(California Environmental Quality Act, Pub. Resources Code, §§ 21168, 21168.5; Code of Civ. Proc. §§ 1085, 1094.5)**

INTRODUCTION

1. Petitioners, the People of the State of California, ex rel. Attorney General Edmund G. Brown Jr. ("the People"), bring this action challenging the approval by Respondents County of Tulare ("Tulare County") and its Board of Supervisors ("Board") of the Etchegaray Dairies ("Dairy Project"), two industrial mega-dairies with over 12,000 cows housed within close proximity to the Allensworth State Historic Park, a nationally registered historic site honoring a pioneering Black settlement founded by a former slave. On March 20, 2007, the Board approved the Dairy Project in violation of the California Environmental Quality Act ("CEQA"; Pub. Resources Code, § 21000 *et seq.*) Respondents failed to fully evaluate impacts to Allensworth State Park and other state resources, failed to consider and adopt appropriate mitigation, and failed to consider reasonable, less environmentally harmful, alternatives.

2. Allensworth State Park is the only park of its kind in California, and has national historical significance as a federally-listed as a National Register Historic District. Created in the 1970's, the park preserves a town founded by Colonel Allen Allensworth as an agricultural haven for other former slaves and sharecroppers in the Central Valley. Born a slave in 1842, Colonel Allensworth served in the U.S. military during the Civil War, and was the first African-American to receive the rank of Lieutenant-Colonel in the service. After the war, Colonel Allensworth came to the Central Valley to create a community focused on achieving social, cultural, political and economic self-sufficiency for its Black inhabitants. Today, the Allensworth State Park serves as an inspiration to people of all races, and particularly to the African-American community, as an exemplar of Black accomplishment and triumph over racial and economic discrimination.

3. The People of the State of California own – and through the California Department of Parks and Recreation ("Parks Department") manage – the Allensworth State Park, and have invested several million dollars to preserve and restore 21 historic buildings in the settlement in order to provide visitors with an accurate portrayal of the

life of these courageous Black pioneers at the turn of the 20th century. Although it is located in a remote location in the southwest corner of Tulare County, the park receives thousands of visitors each year, is the site of several historical festivals, sponsors day use recreation and camping facilities, and hosts busloads of schoolchildren encountering this important piece of California history for the first time.

4. Respondents approved the siting of two industrial mega-dairies on a parcel directly across a rural highway from the park. Over 12,000 dairy cows and support stock will be kept in confined quarters only a mile from the core of the historic district, generating over 20 tons of manure and 10,000 gallons of manure water daily. The waste manure and water will be spread on the project site on land next to the park. The enjoyment and experience of visitors to Allensworth State Park will be compromised by the odors, flies and air and water pollution generated by these large dairies in such close proximity. By bringing a large industrial dairy operation into the immediate surroundings of the park, the Dairy Project threatens the park's historic integrity and its function to convey an historically accurate picture of the way of life of the Allensworth pioneers.

5. The Allensworth State Park, and the adjacent Dairy Project, are both situated in between the federal Pixley National Wildlife Refuge and the state-owned Allensworth Ecological Reserve. Numerous state and federally listed threatened, endangered, rare, and special-status species are known to occur in the vicinity of the park and the proposed project. The park and its surroundings, including the project site, serve as an important wildlife habit connection between these two natural areas; this function is threatened by the construction, operation and waste discharges of the two dairies.

6. CEQA requires that a public agency undertaking a project with the potential to harm the environment must prepare an environmental impact report ("EIR") that uncovers, analyzes, and fully discloses the reasonably forseeable effects on the environment of the project, and adopts all feasible measures available to mitigate those effects. Here, even though the Dairy Project is adjacent to an important state park and

ecological reserve, Respondents approved the Final Environmental Impact Report ("FEIR") for the Dairy Project without meaningfully evaluating and identifying the impacts on the unique historical resources and setting of Allensworth State Park, on the specific visitor uses and experience of the park, on the habitats and viability of various endangered and threatened species present in the adjacent state and federal wildlife refuge and ecological reserve, and on the already degraded air and water quality of the area. Because it fails to analyze and sufficiently describe the impacts of the project, the FEIR concomitantly fails to present and adopt feasible mitigation for each of the impacts as required by CEQA. In addition, the FEIR fails to properly analyze alternatives to the proposed Dairy Project, including more compatible alternative locations for the dairies.

7. This is an action for injunctive relief under CEQA against the Respondents. The People seek a writ of mandate to set aside Respondents' approval of the certification of the FEIR and the Dairy Project, and a court order to provide environmental review and mitigation in compliance with CEQA.

PARTIES

8. Attorney General Edmund G. Brown Jr. is the chief law officer of the State of California. He has broad independent powers under the California Constitution and the California Government Code to participate in all legal matters in which the State is interested, which include protecting California's environment and its natural resources. (Cal. Const., art. V, § 13; Gov. Code, § 12511.) The California Legislature has given the Attorney General a unique role to participate in actions concerning pollution and adverse environmental effects which could affect the public or the natural resources of the State. (Gov. Code, §§ 12600-12612.) Government Code section 12600 specifically provides: "It is in the public interest to provide the people of the State of California through the Attorney General with adequate remedy to protect the natural resources of the State of California from pollution, impairment, or destruction." Petitioner People of State of California, ex rel. Attorney General Edmund G. Brown Jr., files this Petition for Writ of Mandate pursuant to the Attorney General's independent power and duty to protect the

natural resources of the State from pollution, impairment, or destruction in furtherance of the public interest. The natural and historical resources contained within this area of Tulare County are an important component of the heritage of the People of this State and, as a state park and ecological reserve, have been specifically set aside under state law for protection. (Pub. Resource Code, § 5019.53 ("[t]he purpose of state parks shall be to preserve outstanding natural, scenic, and cultural values, indigenous aquatic and terrestrial fauna and flora, and the most significant examples of ecological regions of California".)

9. Respondent County of Tulare is duly organized and existing under the laws of the State of California, is a "public agency" and the "lead agency" for the Project, as those terms are used in CEQA and the CEQA guidelines. The CEQA guidelines, found at California Code of Regulations, title 14, section 15000, *et seq.*, are regulations interpreting and implementing CEQA; they are binding on all state and local agencies, and are binding on Respondents. (Cal. Code Regs., title 14, § 15000.)

10. Respondent Board of Supervisors of Tulare County ("Board") is the governing body of Tulare County and is responsible for approval of land use and development projects within the County's jurisdiction, and is responsible for complying with state and federal law when approving the Dairy Project. The Board is sued in its official capacity only.

11. Real Parties in Interest are Sam Etchegaray, an individual, identified in the Tulare County resolution of approval of the project as the project owner; and Etchegaray Dairies, identified in the Tulare County resolution of approval as the project applicant.

VENUE AND JURISDICTION

12. Pursuant to Public Resources Code sections 21168 and 21168.5 and Code of Civil Procedure sections 1085 and 1094.5, this Court has jurisdiction to hear this matter.

13. Venue is appropriate in this judicial district as the violations of CEQA and the principal environmental impacts alleged herein occurred in Tulare County.

STATEMENT OF FACTS

14. The Dairies Project includes the development of two new dairies on one parcel in southwestern Tulare County: the Earlimart Ranch Dairy to be located on 160 acres in the northeast corner of the parcel, to house 5,715 animals (milk cows plus support stock); and, the Phillips Ranch Dairy to be located on 160 acres approximately one mile to the west, to house 6,535 milk cows and support stock. The rest of the 2,692-acre parcel will remain in agricultural production, and will be used to dispose of liquid and solid manure wastes from the dairies.

15. The project site lies directly east of State Highway 43; the community of Allensworth and the Allensworth State Park lie on the other side of the highway. The two areas where the 12,000 animals will be confined are located just barely outside a one-mile "windshed" boundary surrounding Allensworth, the minimum distance allowed between a new dairy and an existing community under Tulare County's Animal Confinement Facilities Plan policies.

16. The buffer zone was adopted arbitrarily, based solely on the past practice of the County to use a one-mile community "windshed" during "the last 25 years" as the "appropriate separation" to avoid potential conflicts between dairies and communities. (ACFP/DPEIR, Response to Comments, pp. 29-30.) Similarly, the County has arbitrarily adopted a minimum 1,000 feet buffer zone around public parks. (*Id.*) The administrative record for the Dairy Projects contains no evidence or analysis of the actual odor impacts that would be reasonably expected from confining 12,000 plus cows just one-mile away from Allensworth State Park, or from the spreading of waste manure and manure water from the Dairy Project on the parts of the parcel next to the park.

17. The People of the State of California have considerable interest and investment in Allensworth State Park, which is visited by thousands of people each year for day use recreational and educational purposes and for camping. The proposed Dairy Project directly impacts this unique state park. The prospect of two industrial dairy operations, with attendant flies, odors and air pollution, on a parcel next to the park

threatens the historical integrity of Allensworth Park and the protection of the People's investment in this important component of the state park system.

18. Other state resources are threatened by the Dairy Project. The operation and proposed waste disposal associated with the dairies presents threats to the quality of surface and ground waters at and adjacent to the site, and the riparian, wetland, and upland habitats adjacent to and within the project site, including in both the Pixly National Wildlife Refuge located to the north of the project and the California Department of Fish and Game's Allensworth Ecological Reserve located to the south and east. In addition, the Dairy Project will add at least 155 tons per year of reactive organic gases, 30 tons per year of nitrogen oxides, .13 tons of particulate emissions, 2540 tons of methane, and nearly 600 tons of ammonia to an air quality basin already seriously out of compliance with many state and federal air quality standards.

19. Tulare County prepared and circulated, on March 20, 2006, a draft EIR for the Dairy Project. Public hearings were conducted on the EIR and project by the Tulare County Planning Commission on May 17, June 14, July 26, and August 9, of 2006.

20. The Parks Department presented comments on the draft EIR during the public comment period. The Parks Department's comments reflected concerns about the failure of the draft EIS to analyze and identify the impacts of the project on the unique historic resources and visitor experience of Allensworth State Park, and the failure to consider a sufficient range of alternatives, as well as the deficiencies in proposed mitigation. On June 13, 2006, the California Department of Fish and Game also submitted written comments expressing concerns with the adequacy of the biological survey conducted for the EIR, and the threats to protected species and habitat and degradation of ground and surface water quality posed by the project. Numerous other parties commented on the inadequacy of the draft EIR, and testified in opposition to the Dairy Project. All of these comments were made prior to the close of the public hearing on the project before the issuance of the Notice of Determination and are part of the administrative record connected with the approval of the Dairy Project.

21. On or about July of 2006, Tulare County released the FEIR, consisting of the draft EIR, the comments on the draft, and the responses to those comments. Numerous comments were submitted on the FEIR, including but not limited to a September 7, 2006 letter from the Department of Fish and Game stating that the impacts to water quality and protected species and habitat had still not been adequately addressed. Subsequent responses to additional comments were issued by Respondents in August 2006 and September 2006. All of these comments were made prior to the close of the public hearing on the project before the issuance of the Notice of Determination and are part of the administrative record.

22. At a public hearing on September 13, 2006, the Planning Commission declined to either approve or deny the Dairy Project, and instead took no action on the project, referring it to the Board for further action. The project applicant filed an appeal of the Planning Commission's failure to act on the application. The Board of Supervisors held public hearings on the project and FEIR on October 24, 2006 and December 5, 2006, and took final action to approve the Dairy Project and FEIR on March 20, 2007.

23. The FEIR fails to identify and analyze potential adverse impacts on Allensworth State Park. In particular, the FEIR fails to consider the special significance of the unique historical resources at the park, as required under CEQA whenever a project may materially alter a historic resource or its immediate surroundings. Despite Allensworth's historical significance and the importance of maintaining the integrity of its surroundings in order to preserve its historical significance, the FEIR contains no description of the specific public uses of the facilities and buildings at the park. Instead, it states only that the buildings are largely "unoccupied." The FEIR fails to even make mention of the national historical significance of the park. Instead of a detailed examination of the air and water emissions from locating 12,000 cows and disposing of their waste on property adjacent to the park and how those emissions will effect the visitor experience and the historic character of the park, the FEIR contains only a

conclusion, unsupported by any factual evidence, that because the animals will be confined greater than 1000 feet away from the park, and because the dairies are technically outside the one-mile community "windshed" boundary, no odor, fly or air pollution impacts will occur. Reliance on an arbitrary buffer zone does not constitute legally adequate analysis under CEQA.

24. The FEIR fails to adequately address whether any cultural resources associated with the Allensworth State Park exist on the project site or in the vicinity.

25. Failure to identify impacts to Allensworth State Park results in a concomitant failure to identify feasible mitigation measures to avoid or minimize any effects that may be significant.

26. In its role as a Trustee Agency under CEQA, the California Department of Fish and Game identified critical biological resources near the project site that could be effected by the Dairy Project, and in particular by wastewater runoff from the project site. Yet, the FEIR fails to properly recognize or analyze those impacts. Accordingly, in approving the FEIR and the Dairy Project, Tulare County also has failed to adopt adequate mitigation measures to reduce the significant impacts on the wildlife habitat and candidate, special-status and sensitive species and other biological resources that occur in the vicinity of the proposed project site.

27. The FEIR improperly concludes that the Etchegaray Dairies will have no significant impact on water quality. In doing so, the FEIR fails to properly consider relevant evidence in the record indicating that there are permeable soils in the area, and that if levees for wastewater retention ponds should fail, groundwater may be contaminated. The FEIR also fails to properly consider the history of flooding in the area, that adjacent wildlife refuges have been impacted by dairy runoff in the past, and that the project site is located in an area with very shallow groundwater. The FEIR uses outdated assumptions regarding nitrogen and salt excretions applicable to discharges from dairy wastewater, and as a result, the project fails to provide sufficient land to ensure disposal of wastewater in a manner that will not degrade water quality. Tulare

County fails to adopt, and improperly defers to the State Water Resources Control Board for adoption of, reasonable mitigation measures to minimize these impacts.

28. The FEIR fails to adequately analyze the effects of air emissions from the Dairy Project on local and regional air quality, or on regional efforts to meet federal air quality standards required to be met under applicable federal law. Instead of disclosure and analysis regarding whether expected air emissions from the projects will result in significant impacts on air quality and human health, the FEIR improperly substitutes improper conclusory findings of significance. For examples, the FEIR fails to include any modeling or other projections of the effects on air quality of the expected emission of reactive organic gases from the project; fails to include any estimation of nitrogen oxide emissions on local and regional air quality; fails to consider any impacts from formation of secondary particulates from the interaction of ammonia emissions with nitrogen oxides and other pollutants; fails to properly assess expected air quality effects of small size particulate emissions; fails to provide any bases for evaluating the relative contribution of ammonia emissions from the project in relation to regional pollutant loads; fails to provide any meaningful analysis of the emissions of methane, a greenhouse gas; fails to calculate hydrogen sulfide emissions or effects; and fails to perform a meaningful cumulative impacts analysis of the project's emissions to basin-wide pollution levels. Further, the mitigation measures proposed to reduce air quality impacts are vague, unenforceable, and of limited efficacy. The FEIR improperly fails to require feasible mitigation measures, such as purchase of air pollution offsets, or to consider other feasible mitigation measures, such as particulate trap technology or use of alternative fuels for diesel farm vehicles.

29. The FEIR fails to identify and analyze reasonable alternatives to the Dairy Project, or to the location of the project. The FEIR considers only two alternatives in addition to the no-project alternative: a dairy with the same size herd on a different, larger parcel; and a reduced herd size. The FEIR concludes, based on an improper reliance on economic considerations, that these alternatives are not feasible. More

significantly, the FEIR fails to consider other reasonable alternatives such as locating a similar sized dairy on a parcel further away from Allensworth State Park and the Allensworth Ecological Reserve. In particular, the FEIR fails consider siting the dairies on alternative parcels owned by the project applicant.

30. Despite the deficiencies in the FEIR set forth above, on March 20, 2007, Respondents certified the FEIR and approved the Dairy Project.

31. The Notice of Determination announcing Tulare County's decision was filed with the Tulare County Clerk on March 27, 2007.

32. The certification of the FEIR was accompanied by the approval of a Statement of Overriding Considerations, even though Respondents had not described all environmental impacts of the project, nor considered all feasible mitigation for those impacts or alternatives to the project, in the FEIR.

33. Unless restrained by the Court, Respondents will proceed with the Dairy Project without complying with the requirements of CEQA. If construction proceeds without compliance with this law, the People will suffer great and irreparable harm. The People have no plain, adequate and speedy remedy at law.

34. Section 21177 of the Public Resources Code requiring exhaustion of administrative remedies is not applicable to the Attorney General.

35. This petition is excused from verification pursuant to subdivision (a) of section 446 of the Code of Civil Procedure.

36. The People have complied with the requirements of Publi5c Resources Code section 21167.5. A copy of the written notice provided to Tulare County and a proof of service, as required by that provision, is attached as Exhibit "A" to this petition.

STATUTORY AND REGULATORY REQUIREMENTS

37. CEQA requires the preparation of an EIR in order to identify the significant effects on the environment of a project, so that measures to mitigate or avoid those effects, or alternatives that avoid those effects, can be devised. (Pub. Resources Code, §§ 21002.1(a), 21060.) Compliance with the procedural requirements of CEQA to

conduct an adequate analysis of environmental impacts sets the stage for development of mitigation measures and alternatives. Without this proper procedural foundation, a local agency cannot comply with CEQA's mandate that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. (Pub. Resources Code, § 21002.)

38. CEQA's fundamental goals are to foster informed decision making and to fully inform the public about the project and its impacts. (Cal. Code Regs., title 14, § 15003.)

39. An environmental impact report must provide public agencies and the public in general with detailed information about the effect that a project is likely to have on the environment, to list ways in which the significant effects of a project might be minimized, and to indicate alternatives to such a project. (Pub. Resources Code, § 21061.) California Code of Regulations, title 14, section 15126.2, requires that the FEIR identify the significant environmental impacts of the project, including direct and indirect impacts. California Code of Regulations, title 14, section 15126.4, requires that the FEIR describe all feasible measures that can minimize significant adverse impacts of the project. CEQA does not allow an agency to defer analysis of impacts and mitigation measures to another agency which may subsequently approve an aspect of the project. (Cal. Code Regs., title 14, § 15126.4, subd. (a)(1)(B).)

40. In conducting a CEQA analysis of potential impacts on a historical site, a public agency is specifically required to consider whether the project will result in substantial adverse changes, including "alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired." (Cal.Code Regs., title 14, § 15064.5, subd. (b)(1).)

41. California Code of Regulations, title 14, section 15126.6, requires that the FEIR describe a range of reasonable alternatives to the project or its location, which would feasiblely attain most of the basic objectives of the project, but would avoid or

substantially lessen any of the significant impacts of the project. Comparative merits of the alternatives should be evaluated.

FIRST CAUSE OF ACTION

(Pub. Resources Code, §§ 21168, 21168.5; Respondents' Failure to Adequately Analyze Impacts of the Project on Allensworth State Park.)

42. The allegations of paragraphs 1 through 41 are incorporated into this cause of action by reference as though set forth fully herein.

43. Respondents violated section 15126.2 of title 14 of the California Code of Regulations, in that the FEIR does not adequately identify all significant environmental impacts of the Project. In particular, Respondents failed to consider the adverse impacts to a registered historial resource, as required by subdivision (b)(1) of section 15064.5 of title 14 of the California Code of Regulations. Defects in the FEIR include, but are not limited to, the following:

a. The FEIR does not adequately describe the impacts of odor, flies and dust from the Dairy Project on the historical resources at, and the historical integrity of, Allensworth State Park.

b. The FEIR does not adequately describe the impacts of the Dairy Project on the visitor experience and specific public uses of the facilities and buildings at the park.

44. Respondents' actions in approving the FEIR and the Dairy Project, without adequately analyzing all significant environmental impacts of the Project, are arbitrary and capricious, without evidentiary support, a prejudicial abuse of discretion and are not in accordance with law.

SECOND CAUSE OF ACTION

(Pub. Resources Code, §§ 21168, 21168.5; Respondents' Failure to Adequately Analyze Impacts of the Project on Other State Resources.)

45. The allegations of paragraphs 1 through 44 are incorporated into this cause of action by reference as though set forth fully herein.

46. Respondents violated section 15126.2 of title 14 of the California Code of Regulations, in that the FEIR does not adequately identify all significant environmental impacts of the Project. Defects in the FEIR include, but are not limited to, the following:

a. The FEIR does not adequately describe and analyze the impacts of the Dairy Project on the biological resources at and around the Allensworth Ecological Reserve and the Pixly National Wildlife Refuge.

b. The FEIR does not adequately describe and analyze the impacts of the Dairy Project on degradation of ground water and surface water at and around the project site.

c. The FEIR does not adequate describe and analyze the air quality impacts of the Dairy Project.

47. Respondents' actions in approving the FEIR and the Dairy Project, without adequately analyzing all significant environmental impacts of the Project, are arbitrary and capricious, without evidentiary support, a prejudicial abuse of discretion and are not in accordance with law.

THIRD CAUSE OF ACTION

(Pub. Resources Code, §§ 21168, 21168.5; Respondents' Failure to Adequately Describe All Feasible Mitigation Measures for Impacts of the Project.)

48. The allegations of paragraphs 1 through 47 are incorporated into this cause of action by reference as though set forth fully herein.

49. Respondents violated section 15126.4 of title 14 of the California Code of Regulations in that the FEIR does not adequately describe all feasible measures that can minimize significant adverse impacts of the Dairy Project, including, but not limited to, the following defects:

a. The FEIR does not adequately address how the impacts to the historical integrity, the visitor experience and the public use of the facilities and buildings at Allensworth State Park will be mitigated.

b. The SEIR does not adequately describe all feasible mitigation measures to address the significant air and water quality impacts associated with the project.

c. The SEIR does not adequately describe all feasible mitigation measures for the impacts to the biological resources and wildlife habitat contained in and around the Allensworth Ecological Reserve and the Pixly National Wildlife Refuge.

50. Respondents have failed to adopt mitigation measures that are specific, enforceable, and efficacious.

51. Respondents' actions in approving the FEIR and the Dairy Project, without adequately analyzing all feasible mitigation for all significant environmental impacts of the Project, and deferring this discussion for later processes, are arbitrary and capricious, without evidentiary support, a prejudicial abuse of discretion and are not in accordance with law.

FOURTH CAUSE OF ACTION

(Pub. Resources Code, §§ 21168, 21168.5; Respondents' Failure to Adequately Analyze All Reasonable Alternatives.)

52. The allegations of paragraphs 1 through 51 are incorporated into this cause of action by reference as though set forth fully herein.

53. Respondents violated section 15126.6 of title 14 of the California Code of Regulations in that, despite significant impacts of the Project to Allensworth State Park, the FEIR does not adequately discuss alternatives that would avoid these impacts to the state park, such as siting the dairies on an alternative parcel owned by the project applicant, or on an alternative parcel of the same or similar size. The FEIR's flawed analysis of two alternatives – a reduced herd size or siting a dairy with the same size herd on a different but larger parcel – does not constitute an adequate analysis of the comparative merits of a reasonable alternatives, as required by CEQA.

54. Respondents' actions in approving the SEIR and the Project, without adequately analyzing all reasonable alternatives that would lessen its impacts, are arbitrary and capricious, without evidentiary support, a prejudicial abuse of discretion, and are not in accordance with law.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request the following relief:

1. A peremptory writ of mandate commanding that:

   a. Respondents vacate and set aside its approval of the FEIR for the Dairy Project, the approval of mitigation measures for the Dairy Project, the approval of a Mitigation Reporting or Monitoring Plan for the Dairy Project, the approval of a Statement of Overriding Considerations for the Dairy Project, the Findings for the Dairy Project, and the approval of the Dairy Project;

   b. Respondents withdraw the Notice of Determination thereof;

   c. Respondents prepare and circulate a revised fEIR for public review and comment that is in compliance with the requirements of CEQA; and

   d. Respondents suspend all activity pursuant to the certification of the FEIR and its approval of the Project that could result in any change or alteration to the physical environment until Respondents have taken all actions necessary to comply with CEQA.

2. Preliminary and permanent injunctions restraining Respondents, their agents, employees, contractors, consultants and all person acting in concert with it, from undertaking any construction or development, issuing any approvals or permits, or taking any other action to implement in any way the approval of the Dairy Project without full compliance with California law;

3. A declaration of the rights and duties of the parties hereto, including but not limited to a declaratory judgment that prior to permitting any grading, construction,

or development of any kind on the Dairy Project site, Respondents must prepare, circulate, and adopt a revised FEIR in accordance with the requirements of CEQA;

4. Petitioners' cost of suit; and

5. Such other relief as the Court deems just and proper.

Dated: April 19, 2007

Respectfully Submitted,

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