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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

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**THE SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF HUMBOLDT**

BESS BAIR; TRISHA LEE LOTUS; JEFFREY  
HEDIN; DAVID SPREEN; CENTER FOR  
BIOLOGICAL DIVERSITY, a non-profit  
corporation; ENVIRONMENTAL PROTECTION  
INFORMATION CENTER, a non-profit  
corporation; CALIFORNIANS FOR  
ALTERNATIVES TO TOXICS, a non-profit  
corporation; and FRIENDS OF DEL NORTE, a  
non-profit group,

Petitioners,

v.

CALIFORNIA DEPARTMENT OF  
TRANSPORTATION; MALCOLM  
DOUGHERTY in his official capacity as Director  
of the California Department of Transportation;  
and DOES 1-20,

**Respondents.**

Case No.

**CV 170543**

**VERIFIED PETITION FOR WRIT OF  
MANDATE AND INJUNCTIVE  
RELIEF**

[Code Civ. Proc. §§ 526, 1085, 1094.5;  
Pub. Res. Code §§ 21168, 21168.5]

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## TABLE OF CONTENTS

|   | Page      |
|---|-----------|
| <b>I. <u>INTRODUCTION</u></b> .....   | <b>1</b>  |
| <b>II. <u>PARTIES</u></b> .....   | <b>6</b>  |
| <b>A. PETITIONERS</b> .....   | <b>6</b>  |
| <b>B. RESPONDENTS</b> .....   | <b>11</b> |
| <b>III. <u>JURISDICTION AND VENUE</u></b> .....   | <b>11</b> |
| <b>IV. <u>OUR RICHARDSON GROVE AND CALTRANS' PLAN FOR ITS DESTRUCTION</u></b> .....   | <b>12</b> |
| <b>A. DRIVING THROUGH HISTORY</b> .....   | <b>12</b> |
| <b>B. DESTROYING OUR REDWOODS</b> .....   | <b>13</b> |
| <b>C. THE GROVE IS THREATENED BY TRUCKS</b> .....   | <b>15</b> |
| <b>D. CALTRANS FAILED TO PROPERLY PROVIDE FOR PUBLIC REVIEW</b> .....   | <b>19</b> |
| <b>E. CALTRANS' DRAFT AND FINAL EIR WERE DEFICIENT</b> .....  | <b>21</b> |
| <b>F. CALTRANS HAS SINCE FAILED TO CORRECT ITS ERRORS IDENTIFIED BY THE LOTUS COURT OR OTHERWISE ADDRESS THE SHORTCOMINGS IN THE 2010 FEIR IN DISREGARD OF THE PUBLIC'S CEQA ROLE</b> ..... | <b>24</b> |
| <b>V. <u>PETITIONERS HAVE COMPLIED WITH ALL PROCEDURAL REQUIREMENTS</u></b> .....   | <b>28</b> |
| <b>A. IRREPARABLE HARM AND ARBITRARY AND CAPRICIOUS ACTION</b> .....  | <b>28</b> |
| <b>B. EXHAUSTION OF ADMINISTRATIVE REMEDIES</b> .....   | <b>29</b> |
| <b>C. ATTORNEYS' FEES</b> .....   | <b>30</b> |
| <b>VI. <u>CLAIMS FOR RELIEF</u></b> .....   | <b>30</b> |
| <b><u>FIRST CAUSE OF ACTION</u></b><br><b>(Violation of CEQA – Invalid Use of An Addendum)</b> .....  | <b>30</b> |
| <b><u>SECOND CAUSE OF ACTION</u></b><br><b>(Violation of CEQA – Failure to Prepare and Adopt an EIR)</b> .....  | <b>31</b> |

**THIRD CAUSE OF ACTION**

(Violation of CEQA - Failure to Support Decision with Valid CEQA Document)..... 32

**FOURTH CAUSE OF ACTION**

(Violation of CEQA - Failure to Provide The Public Its Right of Review) ..... 32

**FIFTH CAUSE OF ACTION**

(Violation of CEQA - Failure to Evaluate Significant Environmental Impacts) ..... 33

**SIXTH CAUSE OF ACTION**

(Violation of CEQA - Failure to Evaluate and Adopt Feasible Alternatives) ..... 34

**SEVENTH CAUSE OF ACTION**

(Violation of CEQA - Failure to Adequate Disclose and Evaluate Cumulative Impacts)... 36

**EIGHTH CAUSE OF ACTION**

(Violation of - Failure to Adopt Mitigation Measures ) ..... 37

**NINTH CAUASE OF ACTION**

(Violation of CEQA – Failure to Adopt Findings)..... 38

**TENTH CAUSE OF ACTION**

(Violation of CEQA - Response to Comments) ..... 40

**ELEVENTH CAUSE OF ACTION**

(Violation of CEQA - Failure to Adopt a Mitigation Monitoring Plan ) ..... 42

**TWELFTH CAUSE OF ACTION**

(Injunctive Relief) ..... 42

**PRAYER FOR RELIEF**..... 42

Petitioners Bess Bair, Trisha Lee Lotus, Jeffrey Hedin, David Spreen, the Center for Biological Diversity, Environmental Protection Information Center, Californians for Alternatives to Toxics, and Friends of Del Norte (hereinafter collectively referred to as “Petitioners”) allege as follows based on information and belief, except where specifically indicated:

**I. INTRODUCTION**

1. This action continues the ongoing battle of trucks versus trees. Petitioners are duty bound once again to seek assistance by this Court in compelling Respondents, California Department of Transportation and Malcolm Dougherty as Director of the California Department of Transportation (hereinafter referenced collectively as “Caltrans” or “Respondents”), to meet their obligations to adequately evaluate and consider the environmental impact of a proposed major highway construction project set to widen the highway through the ancient old-growth redwoods of Richardson Grove State Park (“Richardson Grove” or the “Park”), which Caltrans has misnamed the “Richardson Grove Operational Improvement Project” and which is referred to herein as the “Proposed Project” or “Richardson Grove Project.”

2. Richardson Grove provides the gateway to majestic old-growth redwoods that exist nowhere outside California’s northern coast, and, even there, in a fraction of their former extent. U.S. Highway 101 threads through the Park for approximately a mile. Rated as one of the 100 finest state parks in America, thousands of visitors annually trek to this historic gem, seeking to enjoy the awe, reverence, and spirituality of the Richardson Grove. Visitors are offered a true glimpse of history as they drive amidst old-growth redwoods ranging between 1,000 and 3,000 years old, some as large as 18 feet in diameter, immediately adjacent to or abutting Highway 101. The ancient redwood forest of Richardson Grove, furthermore, provides critical and essential habitat for numerous species of Northwest coastal California plants and animals that have evolved in conjunction with its redwoods. The survival of these plants and animals depends on the continued survival of the Richardson Grove.

3. At a time in which Californians are bearing witness to an increasing disappearance of the State’s natural wonders at an alarming and accelerating rate, Caltrans is once again attempting to plow through a destructive and needless highway widening project that

1 will both waste millions of taxpayer dollars and likely destroy one of the last remaining  
2 irreplaceable stands of ancient old-growth Redwoods, without studying the severe and permanent  
3 environmental consequences.

4         4.       This case is also very much about a state agency's disregard for the public's  
5 rightful role in the review and decision-making process guaranteed by the California  
6 Environmental Quality Act ("CEQA"). On a project such as Richardson Grove, CEQA  
7 mandates public accountability. CEQA also requires that Caltrans engage as a partner with the  
8 public in evaluating share expertise, disclosing agency analyses, checking for accuracy, detecting  
9 omissions, discovering public concerns, and soliciting counter proposals.

10        5.       This action follows successful state and federal court challenges to Caltrans'  
11 initial 2010 approval of the Richardson Grove Operational Improvement Project. In both actions  
12 the Courts found Caltrans' environmental review lacking and not in compliance with governing  
13 law. Ultimately Caltrans rescinded all of its approvals: on June 26, 2014, Caltrans set aside and  
14 rescinded its approval of the Richardson Grove Operational Project and certification of its 2010  
15 Final Environmental Impact Report ("2010 FEIR"), and on November 17, 2014, Caltrans  
16 withdrew and rescinded its 2010 Finding of No Significant Impact ("2010 FONSI").

17        6.       Since then Caltrans has cobbled together various documents and studies, in an  
18 transparent effort to rehabilitate its 2010 decisions, which had been found legally deficient,  
19 without providing any opportunity for the public to review and comment on the purported new  
20 analyses these documents and studies contain. Not only do these purportedly new analyses fail  
21 to comply with CEQA's substantive requirements, this type of disordered and informal process  
22 of environmental review is simply not allowed.

23        7.       On May 22, 2017, Caltrans reapproved the Richardson Grove Project, claiming  
24 changes to the Proposed Project and the environmental impacts from those changes are "minor,"  
25 while attempting to justify its conclusion based on some twenty-six documents that have been  
26 developed over the course of nearly four years and comprise hundreds of pages. Caltrans failed  
27 to comply with its duty to ensure public participation in its decision-making process, particularly  
28 in the face of the significant changed circumstances that invalidated its previous decisions.

1           8.       Caltrans claims to have corrected the glaring errors that accompanied Caltrans'  
2 initial 2010 approval of the Richardson Grove Operational Improvement Project. However,  
3 Caltrans has left largely unchanged the analyses and conclusions previously reached based on  
4 erroneous data, but has purposely prevented exposure of its new conclusions and claimed  
5 analyses to any public scrutiny. Further, given the various documents now presented, it is not  
6 even clear what documents and analyses apply to the Proposed Project as currently conceived.  
7 This is particularly true as to the environmental review process required by CEQA. Clearly this  
8 is not what the Courts intended when they ordered Caltrans to rescind certification of the 2010  
9 FEIR and develop a Revised Environmental Assessment, in order to revisit those analyses and  
10 conclusions; and this not what CEQA allows.

11           9.       Based on this disorganized mess, Caltrans proposes a project that would put at  
12 risk destruction of California's most irreplaceable public resources, ancient redwoods and the  
13 habitat they provide, in order to make it easier for large commercial trucks to pass through state  
14 parks, and refuses to meet its legal obligations to adequately analyze the environmental impacts  
15 thereof. With its approvals, Caltrans places these ancient redwoods and public resources at  
16 ecological risk and, once severely damaged or destroyed, these ancient redwoods could take  
17 literally thousands of years from which to recover.

18           10.      Visitors to Richardson Grove State Park stroll among old-growth redwoods that  
19 have stood for as many as 3,000 years, measure as much as 18 feet in diameter, and reach heights  
20 of 300 feet. Willing to recklessly put these old-growth redwoods at risk of destruction, Caltrans  
21 has proposed a project to widen the one mile stretch of U.S. Highway 101 as much as 17 feet  
22 toward old growth redwood trees as it passes through Richardson Grove Park.

23           11.      Caltrans seeks to justify the environmental risks posed by the Proposed Project for  
24 a single purpose: widening the road would allow lifting a general restriction on the passage  
25 through Richardson Grove of large, commercial Surface Transportation Assistance Act of 1982  
26 (or "STAA") trucks, transforming the road through the Grove into an unrestricted industrial  
27 artery. STAA trucks carry trailers that are 8 to 13 feet longer than what are known as "California  
28 legal" trailers. Presently, these elongated STAA trucks are generally prohibited from going

1 through Richardson Grove Park; however, as Caltrans acknowledges, STAA trucks already  
2 regularly pass through the Grove, by virtue of granted exemptions, and pass through without  
3 incident, making the Proposed Project unnecessary. Moreover, Caltrans concedes that increased  
4 use of these STAA trucks will not change barriers which constrain business growth in Humboldt  
5 County.



12. Despite the probable destruction of the ancient redwoods in the Grove and other  
impacts on the human environment that the Proposed Project would create, Caltrans has, through  
disregard of its legal obligations, attempted to railroad the Proposed Project to completion  
without adequately studying the Proposed Project's potentially severe and permanent human  
environmental consequences and without explaining or justifying the Proposed Project's purpose  
or need.

13. The cover of Caltrans's initial FEIR illustrates the Proposed Project's essential  
problem – the road through the Grove at its current width already cuts so close to the old-growth  
trees that any widening would cause a devastating impact.

14. The Proposed Project would have a devastating impact on the root zones of the  
old-growth redwoods, which lay in the path of the Proposed Project. As a substantial portion of  
these root zones already lay below the current road and there is nowhere to expand the road

1 except further upon those zones—upon which California State Parks Department literally request  
2 visitors not to *walk* in order to prevent damage—the risk posed by this proposed expansion is  
3 profound and irreversible.

4 15. In addition to the risk that the Proposed Project poses to old-growth redwoods,  
5 Caltrans has ignored numerous other likely environmental consequences of its Proposed Project;  
6 and it has denied Petitioners and the hundreds, if not thousands, of other concerned persons a  
7 meaningful opportunity to review and comment upon the Proposed Project and its newly stated  
8 justifications. Caltrans also gave no meaningful consideration to the numerous alternatives that  
9 existed to its destructive plans, including simply granting more exceptions to operators of STAA  
10 trucks that desire to pass through the Grove, reducing the speed limit through the Grove, and  
11 failed to properly consider or explain the Proposed Project’s purpose or need.

12 16. Traveling under these redwoods, which tower over Highway 101, as it passes  
13 through Richardson Grove, is for many people the only experience they will ever have of these  
14 utterly unique and majestic forms of nature. No other living thing in the world compares to the  
15 size of ancient redwoods. For many first-time travelers of Highway 101 through Richardson  
16 Grove, the experience is profound and deeply moving.

17 17. Initially, Caltrans tried to justify its Richardson Grove Project as a safety project,  
18 but in the absence of actual evidence, ultimately Caltrans admitted the Richardson Grove Project  
19 would not solve any purported safety problems: “The project is not a safety project, but an  
20 operational improvement project to lift the STAA restriction at this location.” Thus, the secret  
21 agenda was made explicit: “The primary purpose of the Project is to lift the restriction on STAA  
22 vehicles on the portion” of Highway 101 that runs through Richardson Grove State Park.

23 18. Caltrans proposes to engage in a multimillion dollar project and to endanger the  
24 survival of giant old-growth redwoods that have towered over the area for millennia, not to solve  
25 any safety issues, but rather to let an unknown number of bigger commercial trucks pass through  
26 a one mile stretch of road without the hassle of seeking an exemption. The short-sightedness of  
27 this Proposed Project is dumbfounding; and Caltrans review of it is contrary to state law.



1           19.     Petitioners in this action challenge, as violations of CEQA, Caltrans' May 22,  
2 2017 approval of the Proposed Project, the May 1, 2017 approvals of the "Addendum" to the  
3 Final Environmental Impact Report ("Addendum"), and any and all environmental  
4 documentation which Caltrans may claim constitute compliance under CEQA, including, but not  
5 limited to, the 2010 FEIR, dated and approved May 18, 2010, as well as its failures to have  
6 engaged in the required environmental analyses,. This case challenges those actions and reasserts  
7 claims from 2010 because Caltrans continues to violate the law in its reliance on and purported  
8 re-approval of its 2010 actions.

9           20.     These individual Petitioners and the members of the organizational Petitioners are  
10 committed to taking all possible steps to preserve Richardson Grove State Park's old-growth  
11 redwoods and the habitat they provide for posterity. These individual Petitioners and the  
12 members of the organizational Petitioners are informed and believe the Proposed Project would  
13 cause irreparable harm to those redwoods and that habitat. Petitioners have exhausted any and  
14 all administrative remedies prior to filing this act, to the extent administrative remedies were  
15 provided and to the extent legally required to do so.

16           21.     The redwoods of Richardson Grove are a profound natural resource. California  
17 law prohibits sacrificing these old-growth redwoods for immense trucks in such a haphazard and  
18 capricious way. The Grove should be preserved for the trees and all of the people of California,  
19 not destroyed for an unknown number larger trucks.

## 20 **II. PARTIES**

### 21 **A. PETITIONERS**

22           22.     Petitioner BESS BAIR is the granddaughter of Bess and Fred Hartsook. In 1919,  
23 her grandparents honeymooned in a cabin six miles south of Garberville, CA. The cabin was  
24 immediately below Richardson Grove State Park. During the 1920's, Fred Hartsook purchased  
25 the honeymoon cabin and extended it into a resort, comprising 37 acres of pristine redwood  
26 forest, known as The Hartsook Inn. The resort became a major attraction for Hollywood  
27 celebrities, with guests including Mary Pickford and Bing Crosby. The Hartsook Inn survived  
28 under a succession of owners until the 1990s, when the last operator sold the property to the

1 Save-The-Redwoods League. Bess was raised in Northern California, making frequent visits to  
2 the redwoods in and around the Richardson Grove State Park. She continues to visit these same  
3 redwoods as an adult and intends to do so in the future. Since 1975, Bess has resided in San  
4 Francisco County, CA.

5 23. Petitioner TRISHA LEE LOTUS is the great granddaughter of Henry Devoy, who  
6 in 1922 transferred to the State of California the 120 acres which became the initial acreage of  
7 the Richardson Grove State Park. Trisha was born in Santa Rosa and every summer as a child  
8 visited the redwoods in and around the Richardson Grove State Park. She continues to visit  
9 these same redwoods as an adult and intends to do so in the future. Since 1998, Trisha has been  
10 a resident of Humboldt County, CA.

11 24. A retired licensed contractor and a disabled Vietnam Veteran, Petitioner  
12 JEFFREY HEDIN resides in Piercy, CA. Jeff is an elected commissioner with the Piercy Fire  
13 Protection District, members of which respond to emergency calls in Humboldt and Mendocino  
14 Counties. While he is performing his work duties, Jeff drives on Highway 101 through  
15 Richardson Grove State Park.

16 25. Petitioner DAVID SPREEN has lived in Humboldt County for decades. After  
17 graduating from Humboldt State University (Math '76), David and his wife decided to live and  
18 raise a family in Humboldt County. David accepted a position with a wholesale floor covering  
19 distributor based in the San Francisco Bay Area and was promoted to Eureka warehouse branch  
20 manager, which required coordinating logistics between local retail clients and numerous  
21 manufacturers located in California and around the nation. In 2001, David opened Dave Spreen  
22 Enterprises to offer consulting services to clients in the flooring industry interested in doing  
23 business in China. David has served on the Freshwater Educational Foundation, the Freshwater  
24 School Board, and the Eureka Adult School Business Advisory Council. David has previously  
25 attempted to review Richardson Grove Project records at Caltrans, only to be denied access.

26 26. Petitioner CENTER FOR BIOLOGICAL DIVERSITY ("CBD") is a non-profit  
27 New Mexico corporation with offices in Alaska, Arizona, California, Illinois, Minnesota,  
28 Nevada, New Mexico, Oregon, Vermont, and Washington, D.C. CBD is actively involved in

wildlife and habitat protection issues throughout the United States, and has members throughout our country, thousands of whom reside in California. CBD's members and staff include individuals with educational, scientific, spiritual, recreational, and other interests in protection of ancient redwoods and the species which depend on those trees, including the Marbled Murrelet, the Northern Spotted Owl, and listed evolutionarily significant units of anadromous salmonids – including Southern Oregon Northern California Coast (“SONCC”) coho, California Coastal (“CC”) Chinook, and Northern California (“NC”) Steelhead. CBD's members and staff enjoy the biological, recreational, and aesthetic values of the California parks where species such as the Marbled Murrelet, the Northern Spotted Owl, and anadromous salmonids – including SONCC coho, CC Chinook, and NC Steelhead – live, including within and near the Richardson Grove State Park. CBD's members and staff have participated in efforts to protect and preserve the habitat essential to the continued survival of the Marbled Murrelet, the Northern Spotted Owl, and anadromous salmonids – including SONCC coho, CC Chinook, and NC Steelhead. CBD's members and staff intend to visit Richardson Grove State Park in the future to enjoy, appreciate, view, and study the ancient redwoods and to seek out and observe the old growth Redwood trees and forest, Northern Spotted Owl, Marbled Murrelet, anadromous salmonids – including SONCC coho, CC Chinook, and NC Steelhead – in their natural habitat. CBD brings this action on its own behalf and on behalf of its adversely affected members and staff.

27. Petitioner ENVIRONMENTAL PROTECTION INFORMATION CENTER (“EPIC”) is a non-profit public interest organization formed to promote environmental values and environmental protection. EPIC is located in California and has approximately 2,000 members, who live throughout California. EPIC is beneficially interested in the aesthetic enjoyment and continued productivity of land, forest, and other water resources, in the preservation of wildlife and protected species including the Marbled Murrelet, the Northern Spotted Owl, and anadromous salmonids – including SONCC coho, CC Chinook, and NC Steelhead – at self-perpetuating population levels, in protection of ancient and old growth redwoods, watersheds, and in protection of other natural resources and our environment. Members of EPIC travel throughout California for personal, aesthetic, and recreational pursuits,

1 including hiking, bird watching, and enjoying California's incredible beauty. Members of EPIC  
2 regularly visit and enjoy California State Parks, including the remarkably beautiful and majestic  
3 Richardson Grove State Park and its redwood forest and trees. EPIC's members depend for their  
4 livelihood, health, culture, and well-being on the viability of vegetation and land throughout  
5 California. Members of EPIC also observe, study, recreate, gather, or otherwise enjoy the  
6 unique biologic, scientific, and aesthetic benefits of Richardson Grove State Park, which EPIC  
7 members experience as important and unique State and public resources. EPIC's members  
8 intend to continue visiting Richardson Grove State Park in the future, in pursuit of these interests  
9 and benefits. EPIC brings this action on its own behalf and on behalf of its adversely affected  
10 members and staff.

11         28.     Petitioner CALIFORNIANS FOR ALTERNATIVES TO TOXICS ("CATs") is a  
12 non-profit public interest corporation, which has advocated for thirty years on behalf of its  
13 members to enable their control over toxic chemicals in the environment. CATs seeks to advise  
14 and advocate public concerns regarding toxic chemicals in the environment through organizing,  
15 educating, advocating, and building community leadership. This mission is grounded in a  
16 broader concern for the sustainability of the environment. CATs and its members are actively  
17 involved in local, regional, national, and international government and regulatory processes  
18 concerning the exposure, use, and removal of toxic chemicals, including toxic lead and its  
19 constituents. CATs is a region wide organization with its office in Humboldt County, CA.  
20 Members of CATs depend for their livelihood, health, culture, and well-being on the viability of  
21 healthy environmental conditions throughout California. Its members live throughout California.  
22 Members also observe, study, recreate, gather, or otherwise enjoy the biologic, scientific, and  
23 aesthetic benefits of clean water and land throughout California. Members of CATs recreate  
24 within and along the wild and scenic Eel River and in Richardson Grove State Park, and intend  
25 to continue doing so in the future. Members of CATs have an interest in knowing California  
26 remains alive with wildlife and natural wonders, always beautiful and available to enjoy and  
27 utilize. CATs brings this action on its own behalf and on behalf of its adversely affected  
28 members and staff.

29. Plaintiff FRIENDS OF DEL NORTE (“Friends”) is a non-profit public interest group established in 1973 in Crescent City and Gasquet, California, designed to protect the local environment and educate our citizenry on the benefits of planning for living in a pristine setting. For more than forty years, Friends has volunteered resources to foster public dialogue about natural resources throughout the region, by attending federal, state, and local meetings and public hearings working to influence elected leaders in planning for a healthy future in Del Norte County and its bioregion. In part through monitoring local planning issues, Friends’ two hundred local and northern California members have tirelessly worked to protect the pristine qualities of the wild and scenic rivers of Northern California, salmon and steelhead habitat, the scenic corridors of Highways 101 and 199, ancient redwood forests, the Lake Earl Coastal Lagoon, and the wild Pacific coastline. Friends believes that, without deliberate attention and care, these great natural treasures will be compromised or degraded over time and lost to future generations. Friends is proud of its record of success in helping to foster the 40,000 acre expansion of Redwood National and State Parks, the 180,000 acre Siskiyou Wilderness Area, the Smith River National Recreation Area in the Six Rivers National Forest, long-term protection of the Point St. George Heritage Area through acquisition by Del Norte County, better management of Lake Earl Coastal Lagoon resulting in higher biodiversity, and participation at the stakeholder level to successfully promote the creation of the Marine Life Protection Act for Del Norte, Humboldt, and Mendocino counties. Over the years, Friends has worked to protect the scenic qualities of our local highways and to plan the Cushing Creek realignment project on Highway 101 to save old growth redwood trees bordering this scenic highway. Friends will continue to work with federal, state, and local agencies in planning to protect our natural resources. Members of Friends recreate within and along the wild and scenic Eel River and in Richardson Grove State Park, and intend to continue doing so in the future. Friends brings this action on its own behalf and on behalf of its adversely affected members and staff.

30. The above-described health, recreational, scientific, cultural, inspirational, educational, aesthetic, and other interests of Petitioners would be adversely and irreparably injured by Respondents’ failure to comply with CEQA and its related regulations, and other

1 applicable law. These are actual, concrete injuries to these individual Petitioners and the  
2 members of the organizational Petitioners that would be redressed by the relief sought herein.  
3 Petitioners have no adequate remedy at law.

4 31. Petitioners sue on behalf of themselves, their members, and their supporters.  
5 Petitioner organizations are comprised of residents of the State of California who are united by  
6 the following common interests of law and fact: Each Petitioner is an “interested person” in the  
7 aesthetic enjoyment and protection of California’s public lands, including State Parks such as  
8 Richardson Grove State Park, in the preservation of ancient redwoods, fish and wildlife species  
9 at self-perpetuating population levels, in the protection of our environment, and in the protection  
10 of water and air quality.

11 **B. RESPONDENTS**

12 32. Respondent CALIFORNIA DEPARTMENT OF TRANSPORTATION  
13 (“Caltrans”) is a public and state agency within the State of California. Caltrans is the lead  
14 agency for the Proposed Project under CEQA. Caltrans is the agency which prepared and in  
15 2010 approved the 2010 FEIR for the Richardson Grove Project. On June 26, 2014 Caltrans  
16 subsequently rescinded its approval of the Richardson Grove Project and its certification of the  
17 2010 FEIR. On May 1, 2017, Caltrans approved an Addendum to the 2010 FEIR; Caltrans did  
18 not re-certify its 2010 FEIR. On May 22, 2017 Caltrans approved the Richardson Grove Project  
19 and on May 23, 2017 issued a Notice of Determination, which was posted by the State  
20 Clearinghouse on May 24, 2017.

21 33. Respondent MALCOLM DOUGHERTY is the Director of the California  
22 Department of Transportation. As Director, Mr. Dougherty is responsible for maintenance and  
23 operations of roadways comprising the California state highway system. Mr. Dougherty is sued  
24 in his official capacity.

25 **III. JURISDICTION AND VENUE**

26 34. The jurisdiction of this Court is invoked pursuant to California Code of Civil  
27 Procedure §§ 526, 1085, and 1094.5, as well as California Public Resources Code §§ 21168 and  
28 21168.5.

35. Venue is proper in this Court under Code of Civil Procedure § 395.

**IV. OUR RICHARDSON GROVE AND CALTRANS' PLAN FOR ITS DESTRUCTION**

**A. DRIVING THROUGH HISTORY**

36. In 1922, Henry Devoy transferred 120 acres to the State of California, to establish what ultimately became the Richardson Grove State Park. At that time, a narrow dirt road wound through this iconic redwood grove. It was not until 1927, after creation of the Richardson Grove State Park, that the road was first surfaced. Subsequently, thousands of visitors came to see these majestic redwoods and the name “Richardson Grove” became synonymous with ancient redwoods. Over time, Richardson Grove expanded to over 2,000 acres. Richardson Grove State Park is the gateway to the magnificent redwood forests of Northern California, with the towering girth of these oldest living things on earth, their age estimated at 1,000 to 3,000 years, sheltering the roadway from both sides.

37. Richardson Grove State Park is a “heritage park” with worldwide significance, serving as the gateway to the Redwood Region and the quintessential beauty of Northern California. It provides millions of tourists with breathtaking views of gigantic redwoods. The Richardson Grove has withstood the test of time for nearly 3,000 years, as its towering ancient redwoods shelter Highway 101, with a magnificent cathedral of trees and branches that interlace above the road. The section of Highway 101 threading through Richardson Grove is eligible for scenic highway status on the California Scenic Highway System, and thus exists for both transportation and scenic purposes. It is an unparalleled portion of California’s Highway 101.

38. Redwood root systems are shallow and inter-related, extending 3 to 10 times beyond the diameter of the individual tree. Roots that have spent literally centuries successfully navigating their place under and through the soil must be protected to ensure water uptake, nutrient capacity, and structural stability. The California State Department of Parks and Recreation (the “State Parks”) instructs all Richardson Grove visitors that “all park features are protected by law and must not be disturbed.” Commenting on the Proposed Project, the State Parks declared: “Any project that affects the historic patina and the natural fabric of Richardson

Grove State Park can have far reaching impacts to millions of people as they enter the Redwood Region.” And Caltrans admits, “It is not possible to know where roots may be encountered.”

39. The Richardson Grove is home and/or provides habitat for many wildlife species, including blue herons, osprey, acorn woodpeckers, belted kingfishers, the protected marbled murrelet, and the protected northern spotted owl, and provides critical and essential habitat for SONCC coho, listed as threatened under federal and state law, CC Chinook, federally listed as threatened, and NC steelhead, federally listed as threatened.

40. The area is also rich with cultural resources, including those of Native American people, the first known inhabitants of the region, who hunted, fished, gathered food, and collected native materials for basket weaving. The South Fork of the Eel River threads through the Richardson Grove and along Highway 101, and is designated as a Wild and Scenic River under California law (1972) and the Federal Wild and Scenic Rivers Act (1981). The South Fork of the Eel River flows north 105 miles (169 km) from Laytonville to Weott, where it joins the Eel River on the left bank. The South Fork’s watershed of about 689 square miles (1,780 km<sup>2</sup>) drains a long and narrow portion of the Coast Range of California, covering parts of Mendocino and Humboldt counties. For much of its length, the Eel River parallels U.S. Route 101, including through Richardson Grove State Park.

**B. DESTROYING OUR REDWOODS**

41. California’s State Parks are havens for California’s unparalleled natural and cultural resources. As an economic engine for recreation and tourism, California’s State Parks also generate billions of dollars a year in spending in local communities and support over 100,000 jobs statewide. Recently overcoming the worst financial crisis in decades, California cannot withstand threats of any kind to such an immensely valuable source of jobs and revenue. Yet these treasured parklands are facing an unprecedented barrage of assaults, not only from the lack of funding, but from projects such as the one challenged herein, which would encroach upon park land and devastate natural resources.

42. Richardson Grove State Park is directly threatened by such assaults. Caltrans proposes to widen and realign Highway 101 through the Richardson Grove State Park, by



1 removing trees and cutting and impacting the root systems of ancient redwoods along a one-mile  
2 section of the highway.

3 43. Caltrans is placing these ancient redwoods at risk with this Proposed Project,  
4 particularly by cutting, compacting, and placing fill on the roots of these ancient trees,  
5 endangering their very survival. The Proposed Project contradicts Caltrans' own  
6 acknowledgment of "the importance of redwoods." The ancient redwoods in Richardson Grove  
7 State Park are protected trees, within which State Parks declares "it is impossible to install a new  
8 facility without causing damage." Accordingly, State Parks further advises that:

9 There should be no construction activities in the Structural Root Zone of a  
10 protected tree ... Any Intrusion into this zone is usually accompanied by  
11 significant injury to roots further from the trunk; this will shorten the useful life of  
12 the tree in the developed area by reducing vigor and introducing root disease.  
Furthermore, damage to any structural roots may cause an already structurally  
compromised tree to become hazardous.

13 44. Because of the renowned and iconic status of Richardson Grove, the Proposed  
14 Project's influence extends well beyond its borders, exposing a state and national public treasure  
15 to risk of harm. Because the Proposed Project is intended to provide STAA trucks with new  
16 access through the Grove solely for "goods movement," and because Richardson Grove is  
17 treasured by visitors from throughout California and the nation, this Proposed Project has  
18 impacts extending well beyond Humboldt County. The Proposed Project as designed would  
19 result in a devastating legacy.

20 45. Furthermore, the watershed of the South Fork of the Eel River, including its  
21 tributaries, is designated critical habitat under the ESA for the SONCC coho.

22 46. The watershed of the South Fork of the Eel River, including its tributaries, is also  
23 designated as essential fish habitat ("EFH") for both coho and Chinook salmon under the  
24 Magnuson-Stevens Fishery Conservation and Management Act, codified at 16 U.S.C. § 1801 *et*  
25 *seq.* (the "MSA").

26 47. All of the work that Caltrans proposes to do would be upslope from the South  
27 Fork of the Eel River, including cut slope work that would expose significant areas of soil to  
28 erosion. The Proposed Project would also likely increase the amount of truck traffic through the

1 Grove, thereby increasing the risk of accidents and related toxic spills into the South Fork of the  
2 Eel River and areas hydrologically connected thereto, as well as increasing contamination of the  
3 South Fork of the Eel River and areas hydrologically connected thereto related to truck exhaust,  
4 truck tire, and truck brake wear. Contaminants from such sources, including, without limitation,  
5 copper and poly-aromatic hydrocarbons (“PAHs”), have devastating effects on salmonids. The  
6 Proposed Project would also disturb lead contaminated soil, to be used within the Project area,  
7 and which could in turn erode into the South Fork of the Eel River and areas hydrologically  
8 connected thereto.

9 **C. THE GROVE IS THREATENED BY TRUCKS**

10 48. The Proposed Project would widen Highway 101 through Richardson Grove by  
11 increasing the width of paved road in both directions and widening shoulders along the side of  
12 the highway, to change curve radii along the one mile section. The road would be widened by as  
13 much as 14- 17 feet toward some old growth redwoods trees in the Park. The Proposed Project  
14 also would include installation of a retaining wall and barrier rail outside of the Park on the north  
15 to allow the road widening, excavating at least 20 feet down, and placing a retaining wall closer  
16 to and above the Eel River.

17 49. To accomplish this road widening and realignment, Caltrans now claims it would  
18 remove 38 trees and work within and impact the roots and root zones of 109 old-growth  
19 redwoods. Since its initial approval, Caltrans has increased to 78 the number of old growth  
20 redwoods which would have project work occur within the structural root zone of those trees.  
21 Many of these old-growth redwoods are as large as 18 feet in diameter, located immediately  
22 adjacent to Highway 101. The following photos vividly depict how close the redwoods are to  
23 Highway 101 in the Grove and how dangerous the road widening Project would be to these trees:  
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50. The Proposed Project would also entail ground disturbance, removal and replacement of pavement, slope and road excavation, culvert work, excavation and movement of lead-contaminated soils, potential temporary stream diversion, night work with night lighting, disposal/barrow sites, equipment staging areas, permanent right-of-way acquisitions from State Parks and private landowners, temporary construction easements, and vegetation and tree removal.

51. Caltrans has specifically stated that the Proposed Project “**is not a safety project.**”

52. Rather, beneficiaries of the Proposed Project would almost exclusively be a small number non-local corporate giants whose trucks could more cheaply make deliveries to portions of Humboldt County. Caltrans’ stated justification for widening Highway 101 through the Grove is that the road must be wider to allow STAA trucks to pass one another in opposite directions on

1 this section of the highway. So-called STAA trucks are truck-and-trailer combinations that tend  
2 to be somewhat longer than the “California legal” truck-and-trailer combination.

3 53. Specifically, Caltrans maintains it is necessary to widen Highway 101 through  
4 Richardson Grove and change the highway’s alignment to prevent these STAA trucks from “off-  
5 tracking.” “Off-tracking” refers to a phenomena in which a truck’s rear tires may follow a  
6 shorter path than the front tires when turning.

7 54. However, STAA trucks are currently permitted to go through the Richardson  
8 Grove. STAA truck access is currently allowed by statute for livestock trucks and moving vans  
9 on Highway 101 through Richardson Grove State Park. Caltrans cites no evidence in its  
10 documents to indicate that these STAA trucks are unable to safely pass in opposite directions.  
11 Similarly, Caltrans cites no evidence indicating that, in practice runs, any STAA trucks are off-  
12 tracking when traveling through the Richardson Grove.

13 55. By still relying on a legally deficient analysis, Caltrans presents limited  
14 information about vehicle accidents, with no historic evidence that STAA trucks currently cause  
15 or are subject to accidents. According to a California Highway Patrol report in existence at the  
16 time of the 2010 FEIR, there is no record of any collisions, citations, verbal warnings, or even  
17 complaints involving STAA trucks traveling through the Richardson Grove.

18 56. In response to the absence of such evidence, Caltrans created a computer model to  
19 show how these non-existent accidents might possibly happen. According to Caltrans, this  
20 computer model purportedly demonstrated “where the deficiencies [in the current design of the  
21 highway] were that would cause off-tracking.”

22 57. Given the lack of any historic evidence of off-tracking for STAA trucks in the  
23 Richardson Grove, there is no reason to use a computer model to show that the current design  
24 “would” cause off-tracking.

25 58. Caltrans, however, did not provide any information clarifying this apparent  
26 discrepancy. In fact, Caltrans has never disclosed to the public any information used to develop  
27 the computer model—information which also formed the basis for the Proposed Project’s design.  
28 Caltrans never provided basic information, such as curve radii, length of curves, shoulder width,

existing geometrics, elevations, or the engineering used to develop the Proposed Project's computer model.

59. In doing so, Caltrans deprived the public of any meaningful opportunity to evaluate and critique not only the very nature and impacts of the Proposed Project, but also whether the Proposed Project as designed would accomplish what Caltrans sought to achieve.

60. Caltrans' failure to identify the data used in its Proposed Project model also deprived the public of an opportunity to investigate better alternatives to the Proposed Project.

61. Caltrans has not altered its concession that the safety problems purportedly found by its computer model cannot be improved within the scope of the proposed project, or that the Proposed Project failed to bring the stretch of Highway 101 through Richardson Grove up to standards it purportedly identified as currently deficient, including: minimum design speed and curve radii, shoulder width, minimum super-elevation rate, stopping site distance, minimum distance to fixed objects, and corner sight distance.

**D. CALTRANS FAILED TO PROPERLY PROVIDE FOR PUBLIC REVIEW**

62. There is now a long history of Caltrans' neglect of the public's right to participate in and assist with the CEQA environmental review process for the Richardson Grove Project. The history begins in early 2007, when Caltrans initiated a "Richardson Grove Goods Movement Feasibility Study" (the "2007 Study"), which was intended to design a cooperative realignment plan to improve the movement of goods in and out of Humboldt County. The purpose of the 2007 Study was to develop and consider alternative ways of providing safe and economically feasible goods movement. This included, *but was not limited to* increasing access by STAA trucks, which is currently limited by statute to moving and living stock trucks.

63. Later Caltrans abandoned development of the 2007 Study in favor of computer modeling, solely focused on STAA access through the Richardson Grove. The computer software developed conceptual designs using truck turning templates specific to the STAA truck type.

64. On July 26, 2007, Caltrans issued a press release announcing that the movement of goods through Richardson Grove would be "dramatically improved" under a realignment plan

1 developed by Caltrans. While Caltrans apparently consulted regional government  
2 representatives from Humboldt, Del Norte, and Mendocino counties, as well as State and federal  
3 legislators, in the development of this realignment plan, it did not disclose or provide an  
4 opportunity for public review and input on the proposed road realignment or its choice of  
5 increased STAA access over other options.

6 65. Caltrans then held two “open house” public meetings on September 26, 2007 and  
7 February 20, 2008, at which Caltrans made no formal presentation, but simply displayed maps  
8 and exhibits for review and took questions. Caltrans conducted a scoping meeting on May 14,  
9 2008, at which it, again, made no formal presentations, but only took questions and comments.  
10 Caltrans received a flood of scoping comments, urging it to consider reasonable and feasible  
11 alternatives to any widening that could impact the ancient redwoods and the fish and wildlife  
12 habitat, and to ensure that the full scope of STAA access projects in Humboldt, Mendocino, and  
13 Del Norte counties be fully evaluated as related projects with cumulative and growth-inducing  
14 effects.

15 66. The first time Caltrans subject a formal proposal by to public comment on this  
16 very important and controversial matter was when it circulated a Draft EIR in 2008 (“2008  
17 DEIR”), in early December 2008.

18 67. The public comment period was scheduled to close on January 29, 2009; but,  
19 because Caltrans had failed to notice the preparation of the DEIR to the State Clearinghouse,  
20 public comments were accepted until March 12, 2009. Caltrans conducted a public hearing on  
21 the DEIR on December 15, 2008. Caltrans received more than 800 comments in opposition to  
22 the Richardson Grove Project and its DEIR.

23 68. Caltrans, however, rejected these hundreds of comments, which expressed the  
24 above described concerns of the public, and approved the Richardson Grove Project on May 18,  
25 2010. Even though Caltrans developed additional data about the Richardson Grove Project,  
26 including facts and information, changes, and evaluation that were relied upon in the 2010 FEIR  
27 but had not been provided in the 2008 DEIR, it provided no further opportunity for public  
28 review.

69. Consistent with these public concerns, after a previous denial by the Superior Court, on January 30, 2014, the California Court of Appeal granted Plaintiffs' petition for writ of mandate setting aside the Project approvals. *Lotus v. Department of Transportation* ("Lotus"), 223 Cal.App.4th 645 (2014). Accordingly, on June 26, 2014, Caltrans rescinded its Project approval and certification of the 2010 FEIR.

70. Now, some three years later, again with secret development of memoranda, studies, and reports, Caltrans has approved the Richardson Grove Project, accompanied by its approval of the Addendum and 2017 FONSI, but without providing any opportunity for public review and comment and without certifying and final environmental review, both of which are violations of the law. Through this approval, Caltrans attempts to resuscitate its 2010 FEIR, paradoxically asserting, on the one hand, that the legal deficiencies therein have now been corrected but has, on the other hand, implicitly asserted, through its failure to certify, circulate, or expose the document to further public, that the document is unchanged.

71. The reality is that Caltrans has not corrected the legal deficiencies that led to the Court of Appeal decision invalidating the document in 2014; and whether or not it had, Caltrans cannot move forward with the Proposed Project based on a final environmental impact review that has never been certified or exposed to public comment.

**E. CALTRANS' DRAFT AND FINAL EIR WERE DEFICIENT**

72. Caltrans' 2008 DEIR—on which its current approval of the Proposed Project is fundamentally based—was dramatically deficient. In particular, the DEIR lacked data and information necessary to evaluate the impact of the Proposed Project to State Park resources and old growth and ancient redwood trees, the Proposed Project's numerous significant and cumulative effects particularly in relation to its purpose and need, the existence of feasible alternatives to the Proposed Project, and the viability of the proposed mitigation measures. The Proposed Project plans were largely unreadable and failed to present the most basic details concerning cut and fill, easements, and the proposed retaining wall. Caltrans did not provide diagrams depicting root structure zones of the redwoods, independently proposed bicycle routes, or the location of right-of-ways to be acquired or relinquished by State Parks. In these ways and



1 others, Caltrans failed to provide the required Richardson Grove Project description of the  
2 Proposed Project that could enable the public to understand and critique how the proposed  
3 changes to Highway 101 might affect Richardson Grove

4 73. Numerous comments on the 2008 DEIR repeatedly pointed out that Caltrans  
5 failed to identify and adequately evaluate the Richardson Grove Project's significant  
6 environmental impacts, including: effects on the ancient redwood trees adjacent to the highway  
7 throughout the Richardson Grove Project site; effects on protected fish and wildlife species and  
8 other biological resources, not only from tree damage and removal but also from increased noise  
9 and light during and after construction and from release and disposal of toxic materials;  
10 greenhouse gas emissions; and the cumulative and growth-inducing effects associated with  
11 expanding STAA truck access and goods movement throughout Humboldt, Mendocino, and Del  
12 Norte counties. In many respects, the 2008 DEIR made sweeping, conclusory statements that the  
13 Richardson Grove Project's environmental effects would not be significant, without providing  
14 any criteria or meaningful explanation why, for example, the Richardson Grove Project would  
15 not diminish State Park values and resources for those millions of travelers who visit the Park.

16 74. The 2010 FEIR failed to remedy the 2008 DEIR's dramatic deficiencies. Rather  
17 than act as hundreds of comments requested and provide the public with an opportunity to  
18 review a revised environmental analysis that corrected the 2008 DEIR's extensive informational  
19 and analytical errors and omissions, Caltrans simply certified the 2010 FEIR and immediately  
20 approved the Richardson Grove Project. The public had no opportunity to review and comment  
21 on the 2010 FEIR and the new information and analysis Caltrans included therein. In this way,  
22 Caltrans' process failed CEQA's fundamental informational goals by depriving the public of its  
23 opportunity to review the Richardson Grove Project and its significant environmental effects,  
24 proposed alternatives and mitigation measures, and the information relied upon by Caltrans to  
25 approve the Richardson Grove Project.

26 75. Notably, while the 2010 FEIR added new analysis and information that were not  
27 tested via public comment, the document did not remedy many of the informational and  
28 analytical deficiencies found in the DEIR, including its failure to provide an adequate project

1 description and project plans, evaluation of significant environmental effects, sufficient  
2 cumulative impact analyses and evaluation of growth inducing impacts, technical studies and  
3 documentation to support conclusions that impacts will be less than significant, analysis of  
4 feasible and prudent alternatives, and identification of enforceable and effective mitigation  
5 measures.

6 76. Caltrans proposed to protect the redwoods by using an air spade to dig up roots,  
7 adding brow logs to minimize the impact of fill on the trunks of the trees, and watering the trees  
8 weekly once excavation below the finish grade occurs. Caltrans also proposed increasing the  
9 removal of invasive plants as a mitigation measure to offset impacts to these mature redwood  
10 trees where construction occurs within their structural root zone. However, the 2010 FEIR failed  
11 to provide any documentation to establish how these measures or other measures would be  
12 effective and sufficient to protect these trees from harm, or to supply sufficient support, water  
13 and nutrients to meet their demands. The 2010 FEIR failed to provide adequate detail to assess  
14 the Richardson Grove Project's impacts on the redwoods and their root systems. At the time of  
15 approval, Caltrans did not provide a mitigation monitoring plan to establish that the mitigation  
16 measures it did identify would be implemented and properly reported. The 2010 FEIR never  
17 adequately addressed widespread concern that the proposed Richardson Grove Project will  
18 eventually cause tree mortality along the highway and within the Grove.

19 77. The 2010 FEIR included responses to comments, which were deficient in their  
20 failure to identify and respond to all comments and concerns raised, as required by CEQA. The  
21 approvals do not provide evidence that Caltrans adopted a mitigation monitoring plan as required  
22 by CEQA.

23 78. Caltrans initially approved the Richardson Grove Project on May 18, 2010. And,  
24 consistent with these public concerns, in 2014 the *Lotus* court ordered that Caltrans set aside and  
25 rescind its Project approval and certification of the 2010 FEIR, which Caltrans did on June 26,  
26 2014. No final environmental impact report has subsequently been recertified.

1           **F. CALTRANS HAS SINCE FAILED TO CORRECT ITS ERRORS IDENTIFIED BY THE**  
2           **LOTUS COURT OR OTHERWISE ADDRESS THE SHORTCOMINGS IN THE 2010**  
3           **FEIR IN DISREGARD OF THE PUBLIC’S CEQA ROLE**

4           79. On May 22, 2017, after over three years of supposedly revising various  
5 documentation for the Project, but without providing any opportunity for the public to review  
6 and comment on the development of numerous documents and claimed analyses comprising  
7 hundreds of pages intended to justify its decisions, Caltrans “approved” the Richardson Grove  
8 Project at issue in this litigation, but never certified any final environmental impact review,  
9 whether the 2010 FEIR—to which it purports to *addend* its updates—or any other.

10           80. Under Caltrans’ procedures, a Project Report documents Caltrans’ approval of a  
11 highway project, and a project receives its approval when the Project Report is approved.  
12 Caltrans approved the 2017 Project Report on May 22, 2017. The 2017 Project Report provides  
13 an overall cost estimate of more than **20 million dollars**, for a project which Caltrans has  
14 repeatedly characterized as making only “minor adjustments” to a one-mile segment of Highway  
15 101.

16           81. The Project Report purports to summarize changes made to the Proposed Project,  
17 since issuance of the 2010 FEIR. The changes mentioned are: (1) extending three culverts rather  
18 than replacing them; (2) reducing the depth of roadway structural section from previous 18" to  
19 12"; and (3) changes to the Retaining Wall at the north end of the Project.

20           82. The Project Report’s stated purpose is to “update and reapprove the 2010 Project  
21 Report,” which it included as Attachment A, but without any of the attachments originally part of  
22 the 2010 Project Report on which the 2010 FEIR extensively relied. It also includes new  
23 Attachments B-M, of which Attachments B-D are undated and unsigned. The latter unsigned  
24 documents are plan layouts, typical cross-section diagrams, and a retaining wall general plan.

25           83. The new Attachment E is the “Environmental Document” for the Richardson  
26 Grove Project. It provides two documents which were both approved on May 1, 2017: an  
27 Addendum to the 2010 FEIR (“2017 Addendum”), and a separate 2017 Finding of No  
28 Significant Impact I which is intended to identify revisions to the 2010 FONSI, EA and 2013

1 Supplement. In approving the 2017 Addendum, Caltrans relied in large part on the 2010 FEIR;  
2 however, Caltrans did not re-certify the 2010 FEIR after it rescinded its certification on June 26,  
3 2014. And neither the Project Report nor the 2017 Addendum includes or incorporates the 2010  
4 FEIR as an Environmental Document. While the Project Report claims that a final environmental  
5 impact report was approved on May 1, 2017, there is no evidence provided of this approval  
6 anywhere within the Project Report or elsewhere on Caltrans' website.

7 84. The 2017 Addendum summarizes Caltrans' revised impacts analyses for old  
8 growth redwoods, and purportedly revises portions of the 2010 FEIR with minor updates to the  
9 project description, and additional information and analyses. The 2017 Addendum does not  
10 identify how portions of the 2010 FEIR are revised. The 2017 Addendum identifies changes  
11 from the 2010 FEIR, including reducing (1) the number of trees to be removed; (2) the total  
12 amount of disturbed soil; (3) the amount of new impervious surface; (4) the volume of excavated  
13 material, yet fails to provide or reference supporting calculations or analyses to document these  
14 changes. It is not clear what is intended to support the decision for these changes, and whether  
15 these changes make any real difference in terms of significant environmental impacts.  
16 Elsewhere in the multiple documents that Caltrans' appears to rely on for its approval—but the  
17 legal status of which under CEQA is questionable at best—there is evidence that the Proposed  
18 Project will require a greater volume of excavated material than stated in the 2017 Addendum,  
19 and the culvert work will be different than claimed in the 2017 Addendum.

20 85. The 2017 Addendum also states there is a change and *increase* from 2010 of the  
21 number of old growth redwood trees for which Caltrans claims work will be done within their  
22 structural or root health zones. According to the 2017 Addendum, 109 old growth redwood trees  
23 would have project work within their root health zones. Of these, 78 would have ground  
24 disturbing work within their structural root zones, and 72 of these are located within Richardson  
25 Grove State Park.

26 86. The 2017 Addendum lists, but does not incorporate or attach, a Technical Study  
27 dated August 14, 2015, entitled Final Report An Evaluation of Potential Effects on Old-Growth  
28 Redwoods from Implementation of the Richardson Grove Operational Improvement Project, by

1 Dennis Yniguez of Tree Decisions (“2015 Tree Report”), which, in turn, relies on the Mr.  
2 Yniguez’s review project maps intended to depict old growth redwoods in the Proposed Project,  
3 dated August 13, 2015, and *Individual Tree Details*, dated August 12, 2015, both prepared by  
4 Caltrans. The 2015 Tree Report simply concludes there will be no significant environmental  
5 effect on these trees. The *Individual Tree Details* document does not identify any avoidance or  
6 mitigation measures for work in and around the root zones of the old growth redwoods.

7 87. The 2015 Tree Report’s conclusion is not based on an adequate disclosure and  
8 evaluation of the impacts of the Proposed Project on the old growth redwoods. While it relies on  
9 a “rating” system created by its author to conclude no impact, this rating system lacks  
10 quantification of the effects of root zone disturbance on tree health and fails to provide a metric  
11 for measuring impacts, making it impossible for the public to evaluate whether the ratings are  
12 valid. The 2015 Tree Report does not address the California State Park tree protection policies,  
13 which does provide a metric for evaluating impacts. The 2015 Tree Report relies on several  
14 referenced studies about tree root systems and impacts to tree roots, which are not based on  
15 redwood trees and do not concern highway construction. And the 2015 Tree Report wrongly  
16 assumes that a number of proposed alterations to the root systems will not have negative  
17 consequences.

18 88. Neither the 2017 Addendum nor the 2015 Tree Report provide a consolidated set  
19 of plans which identifies location of old growth redwood trees and the nature and extent of  
20 project work proposed within the root zones of old growth redwood trees. The 2015 Tree Report  
21 is not included as an Attachment to or incorporated by reference in the Project Report or the  
22 2017 Addendum.

23 89. The 2017 Addendum states that “the significance determinations reported in the  
24 CEQA Checklist section of the 2010 Final EIR have not changed,” and “[a]ll minimization  
25 measures described in the 2010 Final EIR would be implemented for this project.”

26 90. Other Attachments to the Project Report include the following:

- 27 • a May 18, 2017 Cost Estimate, detailing costs associated with proposed  
28 work (Attachment F);

- a May 17, 2017 Caltrans Memorandum concerning Current Estimate Right of Way costs (Attachment G);
- a July 2, 2013 Caltrans Transportation Management Plan Update # 5, describing how Caltrans proposes to manage traffic during project implementation (Attachment H);
- “a May 19, 2017 Programming Sheet identifying dates for project implementation (Attachment I);
- “a December 15, 2015 Caltrans Memorandum about an Updated Initial Site Assessment, but without including the actual assessment (Attachment J);
- an October 20, 2014 Caltrans Memorandum recommending different strategies for roadway surface materials (Attachment K);
- “an undated Caltrans Risk Register, which among other things admits that the “sensitive location makes even minor design changes susceptible to major environmental work” (Attachment L); and
- an undated and unsigned Caltrans Storm Water Data Report (Attachment M).

91. Caltrans did not provide any opportunity for the public to review and comment on the Project Report or any of these Attachments, including the 2017 Addendum and the 2015 Tree Report.

92. In addition to these documents, it appears Caltrans relies on several other documents to justify its May 22, 2017 Project approval, including:

- Caltrans’ September 16, 2013 Addendum to a Visual Impacts Analysis;
- Caltrans’ March 2015 Construction Noise Analysis;
- A June 18, 2015 letter from the National Park Service regarding potential impacts to the Wild and Scenic Eel River;
- Caltrans’ December 2015 Water Quality Assessment Report;
- Caltrans’ January 20, 2016 Visual Impact Assessment, Addendum 4;

- Caltrans' May 9, 2016 Memorandum regarding impacts of Proposed Project on truck volumes and changes in highway character;
- Caltrans' June 2016 Natural Environment Study Addendum, which also lists the 2015 Tree Report as a reference, but does not incorporate or provide a copy of that document;
- Caltrans' October 2016 Biological Assessment;
- A January 23, 2017 letter from the National Marine Fisheries Service regarding ESA Consultation Concurrence; and
- A March 29, 2017 letter from the U.S. Fish and Wildlife Service regarding Informal Consultation under the ESA for the Marbled Murrelet and the Northern Spotted Owl.

93. Caltrans did not provide any opportunity for the public to review and comment on these documents, nor did it circulate any of these documents for review under CEQA. Nor are any of these documents part of any certified final environmental impact review. There is none.

94. Instead, without any public scrutiny or conversation, from which Caltrans' analyses and conclusions could be evaluated and properly informed, and without remedying those legal errors identified by the *Lotus* or its federal counterpart, Caltrans acted in a void to reaffirm its 2010 approvals and to once again approve the Richardson Grove Project based on illegitimate analysis and CEQA documentation.

95. Caltrans issued its Notice of Determination on May 23, 2017, which was posted on May 24, 2017. This action is timely filed thereafter.

## **V. PETITIONERS HAVE COMPLIED WITH ALL PROCEDURAL REQUIREMENTS**

### **A. IRREPARABLE HARM AND ARBITRARY AND CAPRICIOUS ACTION**

96. At all times mentioned herein, Respondents have been able to deny the approvals and develop a legally-compliant Final Environmental Impact Report for the Richardson Grove Project. Notwithstanding such ability, Respondents have failed and continue to fail to perform their duty to deny and reject the Richardson Grove Project.

1           97.     If Respondents are not ordered to withdraw their approval of the Richardson  
2     Grove Project, their Project Report, and the 2017 Addendum, the People of California, as well as  
3     the land, watershed, wildlife, economic and environmental values subject to and affected by the  
4     Richardson Grove Project, will suffer immediate, irreparable and permanent damage.

5           98.     Petitioners bring this action on the ground that each Petitioner and Petitioners'  
6     members, as residents, landowners, citizens, and taxpayers of the State of California, will suffer  
7     irreparable injuries if Respondents' actions herein are not set aside immediately. Such injuries  
8     include, but are not limited to, deterioration of protected State Park land and its environmental  
9     setting, damage to ancient redwood groves protected within the State Park, degradation of  
10    wildlife and fisheries habitat, including for the Marbled Murrelet, the Northern Spotted Owl, and  
11    anadromous salmonids, impacts associated with noise and light, impacts associated with toxic  
12    materials handling and disposal, and impacts to air quality.

13           **B.     EXHAUSTION OF ADMINISTRATIVE REMEDIES**

14           99.     Petitioners through their representatives and members have performed all  
15    conditions precedent to the filing of this Petition by raising each and every issue known to them  
16    before Respondents in compliance with Public Resources Code § 21177, including by  
17    participating in the public meetings and hearings, to the extent provided by Caltrans and  
18    submitting written comments. Petitioners, however, do not believe they are required to exhaust  
19    administrative remedies for these challenged approvals, as none were provided, and because to  
20    attempt to do so would be futile, because Petitioners do not have adequate administrative  
21    remedies, because Petitioners lacked a full and fair opportunity to exhaust certain claims, and/or  
22    because there is no certified final environmental impact report concerning which such  
23    administrative remedies could be taken.

24           100.    Petitioners complied with the requirements of Public Resources Code section  
25    21167.5 by serving a written notice of Petitioners' intention to commence this action on the  
26    Respondents on June 20, 2017. A copy of this written notice is attached hereto as Exhibit 1.

27           101.    Petitioners are complying with the requirements of Public Resources Code section  
28    21167.7 by mailing a copy of this Verified Petition to the California Attorney General on June



23 2017. The Declaration of Service transmitting this Petition is attached hereto as Exhibit 2.  
Standing.

102. Petitioners are groups of citizens, taxpayers, and residents of the State of California. Petitioners are individuals and organizations who have participated in the review of the Richardson Grove Project and are concerned about the effects of the proposed Richardson Grove Project on the environment. Petitioners have standing to bring this action. Individual Petitioners and organizational Petitioners' members and staff visit and rely on the natural and other resources of the Richardson Grove Park for their economic livelihood, enjoyment, recreation, education, and spiritual experiences. Petitioners' interests would be concretely and particularly injured by the effects of the Proposed Project on the environment. Individual Petitioners have standing to bring this action on their own behalf, and organizational Petitioners have standing to bring this action on behalf of their injured members and staff.

**C. ATTORNEYS' FEES**

103. In pursuing this action, Petitioners will confer a substantial benefit on the People of the State of California and therefore are entitled to recover from Respondents reasonable attorneys' fees pursuant to §1021.5 of the Code of Civil Procedure.

**VI. CLAIMS FOR RELIEF**

**FIRST CAUSE OF ACTION**

**(Violation of CEQA – Invalid Use of An Addendum)**

104. Petitioners incorporate by reference all the allegations contained in the previous paragraphs as though fully set forth herein.

105. CEQA permits the use of addendum in limited circumstances, to address minor changes which do not require a new, subsequent, or supplemental environmental impact report ("EIR"). (Cal. Code Regs., tit. 14, §§ 15164, 15162.)

106. By law, an addendum depends on the existence of a valid certified EIR, and must be included in or attached to that final certified EIR. (Cal. Code Regs., tit. 14, § 15164 (a), (c).)

107. A lead agency may not use an addendum to cure an EIR that was never validly certified, or is no longer certified. To allow use of an addendum in the absence of a validly

1 approved and certified EIR is not allowed, and would undermine CEQA's fundamental  
2 principles of public accountability.

3 108. Respondents rescinded their certification of the 2010 FEIR and did not certify a  
4 final EIR prior to the time it approved the 2017 Addendum on May 1, 2017.

5 109. Even when a certified EIR exists, an addendum may not be used when substantial  
6 changes are proposed to the project which will required major revisions to an existing certified  
7 EIR, substantial changes are proposed in the project which require major revisions to an existing  
8 certified EIR, or new information, which was not known at the time of the certification of the  
9 EIR becomes available. (Pub. Res. Code § 21166.)

10 110. Respondents have prejudicially abused their discretion and failed to proceed in a  
11 manner required by law and have not supported their decisions by substantial evidence by,  
12 among other things, approving the 2017 Addendum in the absence of a valid certified EIR,  
13 approving the 2017 Addendum, which is inadequate as an informational document, not attaching  
14 or including the approved 2017 Addendum to or in a valid certified EIR, and in disregard of new  
15 facts and changed circumstances that have occurred since Caltrans certified its 2010 FEIR.

16 WHEREFORE, Petitioners pray for relief as hereinafter set forth.

17 **SECOND CAUSE OF ACTION**

18 **(Violation of CEQA – Failure to Prepare and Adopt an EIR)**

19 111. Petitioners incorporate by reference all the allegations contained in the previous  
20 paragraphs as though fully set forth herein.

21 112. CEQA requires a lead agency to prepare an EIR if a discretionary project may  
22 cause a significant effect on the environment. (Pub. Res. Code § 21100l; Cal. Code Regs., tit.  
23 14, § 15064. A significant effect on the environment, by CEQA definition, is a “substantial or  
24 potentially substantial adverse change on the environment.” (Pub. Res. Code § 21068; Cal. Code  
25 Regs., tit. 14, §15382.)

26 113. Respondents determined years ago and to date that the Richardson Grove Project  
27 may cause a significant effect on the environment and required an EIR. Respondents initially  
28 certified a 2010 FEIR in May 2010 for the Project. Respondents subsequently rescinded

1 certification of the May 2010 FEIR, on June 26, 2014, because the *Lotus* court held it was invalid  
2 and failed to comply with CEQA. Respondents have not re-certified the 2010 FEIR or certified  
3 another or different EIR for the Richardson Grove Project.

4 114. Respondents have prejudicially abused their discretion and failed to proceed in a  
5 manner required by law and have not supported their decisions by substantial evidence by,  
6 among other things, failing to adopt and certify a valid EIR for their approval of the Richardson  
7 Grove Project.

8 WHEREFORE, Petitioners pray for relief as hereinafter set forth.

9 **THIRD CAUSE OF ACTION**

10 **(Violation of CEQA - Failure to Support Decision with Valid CEQA Document)**

11 115. Petitioners incorporate by reference all the allegations contained in the previous  
12 paragraphs as though fully set forth herein.

13 116. A state agency must comply with CEQA when it undertakes, supports, or  
14 authorizes a discretionary action which may cause a physical change to the environment. (Pub.  
15 Res. Code § 21080.)

16 117. Respondents admit that the Richardson Grove Project is subject to CEQA, as it is  
17 a discretionary project to be undertaken, supported, and authorized by Respondents.

18 118. Respondents have prejudicially abused their discretion and failed to proceed in a  
19 manner required by law and have not supported their decisions by substantial evidence by,  
20 among other things, approving the Richardson Grove Project on May 22, 2017 without first  
21 developing, circulating, and soliciting public and other agency review and comment, and  
22 formally approving and certifying valid CEQA documentation as required by CEQA

23 WHEREFORE, Petitioners pray for relief as hereinafter set forth.

24 **FOURTH CAUSE OF ACTION**

25 **(Violation of CEQA - Failure to Provide The Public Its Right of Review)**

26 119. Petitioners incorporate by reference all the allegations contained in the previous  
27 paragraphs as though fully set forth herein.

120. “Public participation is an essential part of the CEQA process,” and CEQA guarantees the public a right of participation and review in the EIR process and public agencies are required to provide for wide formal and informal public involvement so as to receive and evaluate public reactions to environmental issues related to the agency’s activities. (Cal. Code. Regs., tit. 14, § 15201.)

121. The purposes of engaging the public in the review of an EIR or negative declaration are to share expertise, disclose agency analyses, check for accuracy, detect omissions, discover public concerns, and solicit counter proposals. (Cal. Code Regs., tit. 14, § 15200.) An agency must provide “adequate time for other public agencies and members of the public to review and comment” on a draft environmental impact report (“DEIR”) or negative declaration that has been prepared.

122. When there are changes to a DEIR after the close of public comment, an agency is required to recirculate the EIR when the agency intends to add significant new information, which deprives the public of a meaningful opportunity to comment on that information. (Pub. Res. Code § 21092.1; Cal. Code Regs., tit. 14, § 15088.5.)

123. Respondents have prejudicially abused their discretion and failed to proceed in a manner required by law and have not supported their decisions by substantial evidence by, among other things, failing to provide an opportunity for public review and comment before they (1) certified the 2010 FEIR, (2) developed a legally compliant EIR for their approval of Richardson Grove Project on May 22, 2017, and (3) approved the 2017 Addendum.

WHEREFORE, Petitioners pray for relief as hereinafter set forth.

## FIFTH CAUSE OF ACTION

**(Violation of CEQA - Failure to Evaluate Significant Environmental Impacts)**

124. Petitioners incorporate by reference all the allegations contained in the previous paragraphs as though fully set forth herein.

125. Respondents are required to disclose and analyze significant adverse effects upon the environment, and to discuss and adopt feasible alternatives and mitigation measures to eliminate or substantially reduce all significant impacts upon the environment.

126. Respondents have prejudicially abused their discretion and failed to proceed in a manner required by law and not supported their decisions by substantial evidence by not properly disclosing, analyzing or mitigating the Richardson Grove Project's significant adverse effects upon the environment including, but not limited to, the effects:

- A. on the ancient redwood trees which stand in close proximity to the highway throughout the Richardson Grove Project site;
- B. on fish and wildlife species and other biological resources, including special status threatened and endangered species such as the Marbled Murrelet, the Northern Spotted Owl, SONCC coho, CC Chinook, and NC steelhead;
- C. from tree removal;
- D. from increased noise and light (particularly nighttime light) during and after construction;
- E. from toxicity to the environment, including from the movement and storage of lead-contaminated soil and other toxic materials;
- F. on greenhouse gas emissions;
- G. on cultural resources; and
- H. from the growth-inducing effects throughout Humboldt, Mendocino and Del Norte counties.

WHEREFORE, Petitioners pray for relief as hereinafter set forth.

## SIXTH CAUSE OF ACTION

**(Violation of CEQA - Failure to Evaluate and Adopt Feasible Alternatives)**

127. Petitioners incorporate by reference all the allegations contained in the previous paragraphs as though fully set forth herein.

128. Respondents are required to consider and adopt feasible alternatives to substantially lessen significant adverse effects on the environment. (Pub. Res. Code §§ 21002, 21102.1(a), 21100(b)(4); Cal. Code Regs., tit. 14, §15126(a).) CEQA requires government agencies “to consider alternatives to proposed actions affecting the environment.” (Pub. Res.

Code, § 21001, subd. (g).) Moreover, “CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.” (Cal. Code Regs., tit. 14, § 15021, subd. (a); Pub. Res. Code §§ 21001, 21002.1.) .

129. In enacting CEQA, the Legislature intended that the statute would help “[p]revent the elimination of fish or wildlife species due to man’s activities, ensure that fish and wildlife populations do not drop below self-sustaining levels, and preserve for future generations representations of all plant and animal communities . . . .” (Pub. Res. Code, §21001, subd. (c).)

130. Respondents prejudicially abused their discretion and failed to proceed in a manner required by law and did not support their Richardson Grove Project approvals with substantial evidence in that, among other things, the Richardson Grove Project does not incorporate all feasible and prudent alternatives or mitigation measures, which would substantially reduce all significant adverse impacts on the environment and the 2017 Addendum or the previously adopted and now decertified 2010 FEIR each do not contain an adequate written analysis of feasible alternatives and mitigation measures designed to reduce the significant adverse environmental effects of the Richardson Grove Project.

131. Respondents prejudicially abused their discretion and failed to proceed in a manner required by law and did not support their Richardson Grove Project approvals by, among things, not performing an adequate analysis, in violation of California Code of Regulations, title 14, §§ 15021 and 15126, and Public Resources Code §§ 21001 and 21002.1, and through their failure to consider, and evaluate, among other:

- A. an alternative to altering and cutting roots and compacting the root systems of ancient redwoods averaging more than seven feet in diameter;
- B. changing the Proposed Project design to avoid certain redwoods;
- C. reducing the speed limit through the Grove in light of the fact that certain STAA trucks are already permitted to travel through the Grove and there is no evidence of safety impacts related to such transport;
- D. providing uniform or additional permitted STAA truck access without disturbing the existing road through the Richardson Grove State Park;

- 1 E. provide a viable business transfer service to switch out cabs on trucks to bring  
2 them through the Grove, and  
3 F. short sea shipping in lieu of trucking.

4 WHEREFORE, Petitioners pray for relief as hereinafter set forth.

5 **SEVENTH CAUSE OF ACTION**

6 **(Violation of CEQA - Failure to Adequately Disclose and Evaluate Cumulative Impacts)**

7 132. Petitioners incorporate by reference all the allegations contained in the previous  
8 paragraphs as though fully set forth herein.

9 133. “Cumulative impacts” are defined as “two or more individual effects which, when  
10 considered together, are considerable or which compound or increase other environmental  
11 impacts.” (Cal. Code Regs., tit. 14, § 15355.) “The cumulative impacts can result from  
12 individually minor but collectively significant projects taking place over a period of time.” (*Id.*,  
13 subd. (b).)

14 134. The 2017 Addendum or the previously adopted and now decertified 2010 FEIR are  
15 each deficient in that each failed to adequately identify and discuss cumulative impacts related to  
16 the Richardson Grove Project, including but not limited to:

- 17 A. the impacts associated with removal of Redwoods and other trees in the  
18 area;  
19 B. the cumulative effects on wildlife and protected species from removing  
20 trees and opening the forest along Highway 101;  
21 C. the traffic and its related noise and air quality impacts in the City of  
22 Eureka and other areas of Humboldt County;  
23 D. related development projects which require STAA truck access;  
24 E. increased truck traffic related to waste hauling; and  
25 F. other Caltrans STAA access and road projects in Humboldt, Del Norte  
26 County, and Mendocino Counties.

27 135. Respondents have prejudicially abused their discretion and failed to proceed in a  
28 manner required by law in that the agency failed adequately to discuss, analyze or provide

mitigation for cumulative impacts resulting from the actions proposed by the Richardson Grove Project.

WHEREFORE, Petitioners pray for relief as hereinafter set forth.

#### **EIGHTH CAUSE OF ACTION**

##### **(Violation of - Failure to Adopt Mitigation Measures )**

136. Petitioners incorporate by reference all the allegations contained in the previous paragraphs as though fully set forth herein.

137. Public Resources Code § 21002 creates a substantive policy by which agencies are forbidden to approve projects that have significant environmental impacts when feasible mitigation measures can substantially lessen or avoid such impacts.

138. A legally adequate EIR must describe mitigation measures that could feasibly substantially reduce or avoid each identified significant effect. “If a mitigation measure would cause one or more significant effects in addition that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed.” (Cal. Code Regs., tit. 14, § 15126, subd. (c).)

139. In approving the Richardson Grove Project, Respondents prejudicially abused their discretion and failed to proceed in a manner required by law because they failed to adopt adequate and effective mitigation measures, including but not limited to measures that will:

- A. protect the ancient redwood trees and their root systems;
- B. not touch any redwoods or their root systems within the Richardson Grove State Park that are 30 inches or larger in diameter;
- C. not allow any roots of Redwoods to be cut;
- D. document the presence or absence of protected species and other biological resources and fully analyze the potential significant environmental effects associated with the Richardson Grove Project before the Proposed Project commences;
- E. avoid impacts to cultural resources: and



1 F. avoid impacts associated with excavation, handling, and disposal of lead-  
2 laden soils.

3 140. Respondents also failed to proceed according to the law and prejudicially abused  
4 their discretion in that, to the extent it did adopt mitigation measures, those measures are not  
5 effective, are not supported by substantial evidence in the record, and are not supported by  
6 legally required findings.

7 WHEREFORE, Petitioners pray for relief as hereinafter set forth.

8 **NINTH CAUASE OF ACTION**

9 **(Violation of CEQA – Failure to Adopt Findings)**

10 141. Petitioners incorporate by reference all the allegations contained in the previous  
11 paragraphs as though fully set forth herein.

12 142. To ensure that mitigation measures are considered and adopted, Public Resources  
13 Code § 21081 and California Code of Regulations, title 14, §§ 15091 through 15093, require  
14 agencies to make specific findings before they can approve projects with significant  
15 environmental effects. Agencies cannot approve projects with significant environmental effects  
16 unless they find either that such effects can be avoided or substantially lessened by the adoption  
17 of mitigation measures or project alternatives; that other agencies with jurisdiction over the  
18 projects have adopted such alternatives or mitigation measures; or that mitigation measures or  
19 alternatives are infeasible due to specific economic, social or other considerations.

20 143. Respondents are required to determine that the Richardson Grove Project has a  
21 significant impact upon the environment if the project has the potential to achieve short-term  
22 environmental goals to the disadvantage of long-term environmental goals, or cause  
23 environmental effects which are individually limited but cumulatively considerable. (Cal. Code  
24 Regs., tit. 14, § 15065 subd. (a), (b), and 9c); Appendix G.)

25 144. Numerous comments submitted to Respondents throughout the initial  
26 environmental review process identified the Richardson Grove Project's significant impacts.  
27 Yet, to this day Respondents have either ignored these comments or glossed over their substance  
28 with conclusory responses. Due to Respondents' disregard, the Proposed Project's identified

1 potential impacts related to ancient redwoods, fish and wildlife, water quality, air quality,  
2 cultural resources, toxic materials and plant populations, as well as its cumulative impacts, must  
3 therefore still be considered significant. Respondents have not successfully mitigated the  
4 impacts of the Richardson Grove Project in the manner or to the extent required by law.

5 145. Respondents prejudicially abused their discretion and failed to proceed in a  
6 manner required by law and have not supported their decisions by substantial evidence or  
7 otherwise, under California Code of Regulations, title 14, §§ 15091, 15092, and 15093, in that,  
8 among other things:

9 A. Respondents have failed to identify the significant environmental effects  
10 of the Richardson Grove Project and have approved the Proposed Project  
11 without making written findings for each of these significant effects as  
12 required by California Code of Regulations, title 14, § 15091;

13 B. Respondents have approved the Richardson Grove Project and have not  
14 eliminated or substantially lessened all significant effects on the  
15 environment where feasible or determined that remaining significant  
16 effects on the environment are acceptable due to overriding concerns as  
17 required by California Code of Regulations, title 14, § 15092; and

18 C. Respondents have failed to issue a statement of overriding considerations  
19 with their approval as required by California Code of Regulations, title 14,  
20 § 15093.

21 146. Because of the numerous significant or presumptively significant impacts  
22 enumerated above, Respondents were required to devise specific, concrete mitigation measures  
23 or alternatives which would substantially reduce or avoid those impacts. (Pub. Res. Code, §§  
24 21002, 21081; Cal. Code Regs., tit. 14, § 15091.) In addition, if such project modification could  
25 not eliminate all significant impacts, Respondents was required to issue a statement of overriding  
26 considerations. (Cal. Code Regs., tit. 14, § 15093.) Respondents have breached these duties and  
27 prejudicially abused their discretion and failed to proceed according to the law in their failure to  
28

1 devise and require mitigation measures, alternatives, and adopt findings and a statement of  
2 overriding considerations.

3 WHEREFORE, Petitioners pray for relief as hereinafter set forth.

4 **TENTH CAUSE OF ACTION**

5 **(Violation of CEQA - Response to Comments)**

6 147. Petitioners incorporate by reference all the allegations contained in the previous  
7 paragraphs as though fully set forth herein.

8 148. “The evaluation and response to public comments is an essential part of the  
9 CEQA process. Failure to comply with the requirement can lead to disapproval of a project.”  
10 (“Discussion” following Cal. Code Regs., tit. 14, § 15088.) By forcing the approving agency to  
11 acknowledge, summarize and respond to the public's concerns, the requirement “enable[s] the  
12 public to determine the environmental and economic values of their elected and appointed  
13 officials thus allowing for appropriate action come election day should a majority of the voters  
14 disagree.” (Cal. Code Regs., tit. 14, § 15003, subd. (e).)

15 149. Respondents must include and respond to comments in an FEIR. (Cal. Code  
16 Regs., tit. 14, §§ 15132, 15088.) To pass legal muster, an agency's responses to comments must  
17 specifically explain the reasons for rejecting suggestions received in comments and for  
18 proceeding with a project despite its environmental impacts. Such explanations must be  
19 supported with specific references to empirical information, scientific authority and/or  
20 explanatory information. The responses, moreover, must manifest a good faith, reasoned  
21 analysis; conclusory statements unsupported by factual information will not suffice. (Cal. Code  
22 Regs., tit. 14, § 15088.)

23 150. Numerous comments submitted to Caltrans throughout the initial  
24 environmental review process. Yet, Caltrans either ignored these comments or glossed over their  
25 substance with conclusory responses. Due to Caltrans’ disregard, the Proposed Project’s  
26 identified potential impacts related to ancient redwoods, fish and wildlife, water quality, air  
27 quality, cultural resources, toxic materials, and plant populations, as well as its cumulative  
28

1 impacts, must therefore still be considered significant. Caltrans has not successfully mitigated  
2 the impacts of the Proposed Project in the manner or to the extent required by law.

3 151. Respondents did not proceed according to law and have not supported their  
4 decisions by substantial evidence. Respondents thus prejudicially abused their discretion in that  
5 the 2010 FEIR for the Richardson Grove Project remains inadequate in ways which include, but  
6 are not limited to, its failure to provide, evaluate and respond in non-conclusory fashion to the  
7 issues and comments raised during the review process; the 2017 Addendum did not correct these  
8 errors. This failure includes, but is not limited to, the failure to include and adequately respond  
9 to public comments regarding:

- 10 A. the Proposed Project purpose and need;
- 11 B. the Proposed Project description;
- 12 C. Project impacts related to ancient redwoods, traffic, noise, light, water  
13 quality, air quality, cultural resources, toxic materials, protected species,  
14 and growth inducement;
- 15 D. the lack of adequate study and documentation to support the 2010 FEIR;
- 16 E. the lack of a valid and adequate public review and comment process;
- 17 F. the need for reissuance and recirculation of the 2010 FEIR because of its  
18 inconsistencies and lack of disclosure and analysis;
- 19 G. the lack of response to scientific data and evidence submitted; and
- 20 H. other significant arguments made by the public.

21 152. Respondents have prejudicially abused their discretion and failed to proceed  
22 in a manner required by law in that the agency did not issue evaluations and responses to  
23 environmental concerns which provided, inter alia, a response to significant environmental  
24 concerns raised. These concerns included, but are not limited to, the impacts of the Richardson  
25 Grove Project upon special populations and special status species, including ancient Redwood  
26 trees.

1 WHEREFORE, Petitioners pray for relief as hereinafter set forth.

2 **ELEVENTH CAUSE OF ACTION**

3 **(Violation of CEQA - Failure to Adopt a Mitigation Monitoring Plan )**

4 153. Petitioners incorporate by reference all the allegations contained in the previous  
5 paragraphs as though fully set forth herein.

6 154. CEQA requires that whenever an agency finds that potential adverse impacts exist  
7 which can be mitigated, it is required to adopt a mitigation monitoring program to ensure that the  
8 mitigation measures are followed. (Pub. Res. Code §21081.6.)

9 155. Respondents have prejudicially abused their discretion in that they have failed to  
10 adopt a legally adequate reporting or monitoring program for mitigation measures it identified  
11 for the Richardson Grove Project.

12 WHEREFORE, Petitioners pray for relief as hereinafter set forth.

13 **TWELFTH CAUSE OF ACTION**

14 **(Injunctive Relief)**

15 156. Petitioners incorporate by reference all the allegations contained in the previous  
16 paragraphs as though fully set forth herein.

17 157. The Richardson Grove Project as approved by Respondents will cause irreparable  
18 injury and harm to State Park resources, to Petitioners and to the public at large. Its significant  
19 environmental impacts have not been adequately evaluated, much less mitigated to a less than  
20 significant level, and feasible and reasonable alternatives have not been properly evaluated by  
21 Respondents.

22 158. The errors and prejudicial abuse of discretion by Respondents constitute the basis  
23 for injunctive relief to prevent this irreparable injury pursuant to Code of Civil Procedure §526.

24 WHEREFORE, Petitioners pray for relief as hereinafter set forth.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Petitioners, and each of them, pray for judgment and further relief as  
27 follows:  
28

1           1.       For a Writ of Mandate ordering Respondents California Department of  
2 Transportation and Malcolm Dougherty as Director of the California Department of  
3 Transportation to vacate and set aside their May 1, 2017 and May 22, 2017 approvals for the  
4 Richardson Grove Project, including their approval of the 2017 Addendum to the 2010 Final  
5 Environmental Impact Report, and all related findings and approvals, and to follow California  
6 regulations and statutes, including the California Environmental Quality Act, in any review of  
7 and decision for the Richardson Grove Project;

8           2.       For interlocutory and permanent injunctive relief enjoining Respondents, and each  
9 of them, from engaging in any activity pursuant to the Richardson Grove Project until the Project  
10 complies with all applicable California regulations and statutes, including requirements of the  
11 California Environmental Quality Act;

12           3.       For interlocutory and permanent injunctive relief retraining Respondents, and  
13 each of them, from approving and implementing any actions to carry out the Richardson Grove  
14 Project pending, and following, the hearing of this matter;

15           4.       For reasonable attorneys' fees, including under California Code of Civil  
16 Procedure §1021.5;

17           5.       For costs of suit, including under California Code of Civil Procedure §§ 1032 and  
18 1033.5; and

19           6.       For such other and further equitable or legal relief as the Court deems proper.

20 DATED: June 22, 2017

**COTCHETT PITRE & McCARTHY LLP**

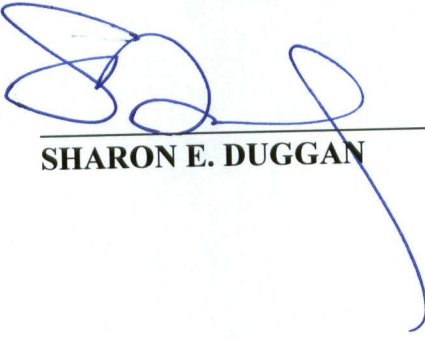
21  
22  
23 By:   
24 **PHILIP L. GREGORY**  
25 *Attorneys for Petitioners*  
26  
27  
28



**VERIFICATION**

I, Sharon E. Duggan, am an attorney for Petitioners in this action. I make this verification on behalf of the Petitioners because such parties and their representatives are absent from the county in which my office is located. I have read the foregoing Verified Petition for Writ of Mandate and Injunctive Relief and know its contents. The facts therein are true and correct to the best of my knowledge and belief, and are based on documents within the records of Respondents underlying their approvals of the Richardson Grove Project herein challenged.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Verification was executed in Oakland, California on June 22, 2017.



**SHARON E. DUGGAN**

**EXHIBIT 1 – Notice Letter to Respondents**

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***LAW OFFICES OF SHARON E. DUGGAN***

**336 Adeline Street  
Oakland, CA 94607  
Email: foxsduggan@aol.com**

**Telephone: (510) 271-0825  
Facsimile: By Request**

June 20, 2017

Transmitted Electronically to: Caltrans.Director@dot.ca.gov  
and by U.S. Mail on Same Date

Director Malcolm Dougherty and  
California Department of Transportation  
1120 N Street MS 49  
Sacramento, CA 95814

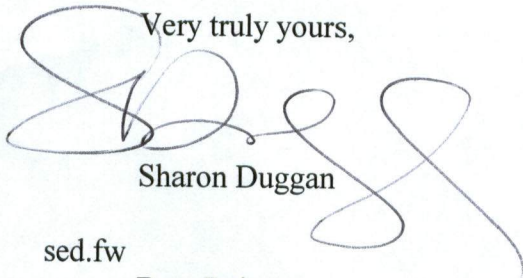
RE: Notice of Intent to File Suit Challenging Approval of Richardson Grove  
Operational Improvement Project

Dear Director Dougherty and California Department of Transportation:

This is to advise you that this office has been retained to and will file claims against the California Department of Transportation ("Caltrans") on behalf of Bess Bair and others challenging the Caltrans' May 22, 2017 approvals of and for the Richardson Grove Operational Improvement Project. It is unfortunate that such action is now required, however, Caltrans has left Bess and others no choice, particularly given Caltrans' failure to provide opportunity for public comment and review of the proposed actions before Caltrans's May 22, 2017 approval. By failing to provide the public with an opportunity to review and comment on Caltrans' proposed action, Bess and others are forced to seek review in the public interest.

These claims shall be filed on or before June 24, 2017. This notice is sent to you pursuant to Public Resources Code 21167.5. This action shall be premised upon, among other things, violations of the California Environmental Quality Act.

Very truly yours,



Sharon Duggan

sed.fw

cc: Bess Bair  
Philip Gregory  
Stuart Gross  
Matt Brady, Caltrans District 1 Director, at matt.brady@dot.ca.gov



1                                    **Exhibit 2 – Declaration of Service on Attorney General**

2            I, SHARON E. DUGGAN, declare:

3            I am, and was at the time of the service hereinafter mentioned over the age of eighteen  
4 and not a party to the above-entitled cause. My business address is 336 Adeline Street, Oakland,  
5 California 94607 and I am a resident of or employed in the County of Alameda, California.

6            On June 22, 2017 I am serving the attached VERIFIED PETITION FOR WRIT OF  
7 MANDATE AND INJUNCTIVE RELIEF on the attorney general addressed as follows:

8                                    XAVIER BECERRA  
9                                    California State Attorney General  
10                                  455 Golden Gate Avenue Suite 11000  
11                                  San Francisco, CA 94102

12        ~~XXX~~ **BY FIRST CLASS MAIL** by depositing a sealed envelope in the United States Postal  
13 Service in the ordinary course of business on the same day it is collected in Oakland,  
14 California postage fully prepaid.

15        \_\_\_\_\_ **BY FACSIMILE MACHINE** by personally transmitting a true copy thereof via a  
16 facsimile machine at approximately \_\_\_\_ a.m./p.m. on \_\_\_\_\_.

17        \_\_\_\_\_ **BY FEDERAL EXPRESS or UNITED PARCEL SERVICE** overnight delivery by  
18 personally depositing in a box or other facility regularly maintained by Federal Express  
19 or United Parcel Service, an express service carrier, or delivered to a courier or driver  
20 authorized by said express service carrier to receive documents.

21        \_\_\_\_\_ **BY HAND DELIVERY** by personally delivering a true copy thereof in an envelope  
22 addressed to the parties identified above at the addresses given for those parties.

23            I declare under penalty of perjury under the laws of the State of California that the  
24 foregoing is true and correct, and that this declaration was executed on June 22, 2017 in  
25 Oakland, California.

26                                      
27                                    \_\_\_\_\_  
28                                    **SHARON E. DUGGAN**