

1 HOLDER LAW GROUP
 2 Jason W. Holder (State Bar No. 232402)
 3 317 Washington St., #177
 4 Oakland, CA 94607-3710
 5 Tel.: (510) 338-3759
 6 Email: jason@holderecolaw.com

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CIN

5 JANSSEN MALLOY LLP
 6 David S. Nims (State Bar No. 280452)
 7 730 Fifth Street
 8 Eureka, CA 95501
 9 Tel.: (707) 445-2071
 10 Fax: (707) 445-8305
 11 Email: dsnims@janssenlaw.com

SUPERIOR COURT OF CALIFORNIA
 COUNTY OF HUMBOLDT

12 Attorneys for Petitioners and Plaintiffs
 13 NORTHCOAST ENVIRONMENTAL CENTER,
 14 CITIZENS FOR A SUSTAINABLE HUMBOLDT,
 15 and MARY GATERUD

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

17 **COUNTY OF HUMBOLDT**

18 NORTHCOAST ENVIRONMENTAL
 19 CENTER, a non-profit organization;
 20 CITIZENS FOR A SUSTAINABLE
 21 HUMBOLDT, a public benefit corporation;
 22 and MARY GATERUD,

) CASE NO.: **CV 21005 1A8** FILE

) **VERIFIED PETITION FOR WRIT OF
) MANDATE AND COMPLAINT FOR
) DECLARATORY AND INJUNCTIVE
) RELIEF**

18 Petitioners and Plaintiffs,

) CEQA Action

19 v.

) [Public Resources Code, §§ 21000, *et seq.*;
) Gov. Code, §§ 65000, *et seq.*; Cal. Code of
) Civil Procedure, §§ 525, 1060, 1085 and/or
) 1094.5]

20 COUNTY OF HUMBOLDT, a political
 21 subdivision of the State of California;
 22 HUMBOLDT COUNTY BOARD OF
 23 SUPERVISORS, and DOES 1 to 10,
 24 inclusive,

24 Respondents and Defendants.

25 ROLLING MEADOW RANCH, LLC, a
 26 Florida limited liability company; ROLLING
 27 MEADOW RANCH, INC., a Florida
 28 corporation, and DOES 11 to 20,

Real Parties in Interest.

Petitioners and Plaintiffs NORTHCOAST ENVIRONMENTAL CENTER, CITIZENS FOR A SUSTAINABLE HUMBOLDT, and MARY GATERUD ("Petitioners") allege as follows:

INTRODUCTION AND SUMMARY

1. By this action, Petitioners acting in the public interest seek a Writ of Mandate directed to Respondents COUNTY OF HUMBOLDT ("County") and the HUMBOLDT COUNTY BOARD OF SUPERVISORS ("Board") (collectively "Respondents") and other requested relief. Petitioners challenge Respondents' unlawful actions taken on or about March 9, 2021, including Respondents' approval of the expansive commercial cannabis project known as the "Rolling Meadow Ranch LLC Project" ("the Project"). Through this Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Verified Petition"), Petitioners seek to compel the County to properly analyze, disclose, and mitigate the significant adverse environmental impacts associated with the Project. Petitioners also seek a judicial declaration that the County has engaged in an unlawful pattern and practice of approving such projects without ensuring the projects fully comply with legal requirements and are consistent with the County's General Plan and applicable land use regulations.

2. According to the revised and recirculated Initial Study / Mitigated Negative Declaration ("IS/MND") challenged in this action, the Project will involve the development of approximately 249,739 square feet (5.73 acres) of mixed-light commercial cannabis cultivation space, located in sixteen (16) greenhouses, and five processing buildings, concentrated in four clusters spread along approximately five miles of narrow unpaved ranch roads. The Project site is an approximately 7,110-acre set of undeveloped parcels referred to as the "Rolling Meadow Ranch" (APNs 217-201-001, 217-181-027, 217-181-028, 217-182-001, 217-024-011, 217-024-006, 217-024-010, 217-024-003, 217-025-001).

3. In July 2020, following release of the original IS/MND, Petitioners and other commenters presented substantial evidence supporting a fair argument that the Project may cause a number of significant environmental impacts. In response, Respondents repeatedly postponed the planned decision on the Project and, instead, revised the IS/MND. In December

2020, after release of a revised IS/MND that remained fatally flawed, Petitioners and other commenters again presented substantial evidence supporting a fair argument concerning the possibility of the Project's myriad potentially significant impacts. When staff reports to the Planning Commission and later to the Board of Supervisors presented new and sometimes inconsistent information to supplement the impact analysis, Petitioners and other commenters reinforced the fair argument that an Environmental Impact Report ("EIR") is required.

4. By not preparing an EIR before approving a Project that may cause multiple significant environmental impacts, Respondents violated the California Environmental Quality Act (Public Resources Code ("PRC"), §§ 21000 et seq. ("CEQA") and the CEQA Guidelines (Title 14, California Code of Regulations, §§ 15000 et seq. ("CEQA Guidelines")).

5. By approving a Project that is fundamentally inconsistent with mandatory General Plan and regulatory standards, Respondents also prejudicially abused their discretion and failed to proceed in the manner required by law, in violation of the State Planning and Zoning Law (Gov. Code, §§ 65000 et seq.). More specifically, Respondents approved an industrial-scale commercial Project in a remote mountainous area with (1) access roads that do not satisfy minimum mandatory standards set forth in the County's regulations, (2) wells, collectively pumping more than 4.5 million gallons of groundwater annually, that may be hydrologically connected to surface waters, including wetlands, springs, and tributaries to the Eel River, and (3) potential major disruption to fully protected, threatened, and rare animals and plants without coordinating with CDFW regarding analyzing and mitigating these impacts. These characteristics make the Project inconsistent with mandatory policies set forth in the County's General Plan and other land use regulations.

6. These violations of CEQA and the State Planning and Zoning Law are not isolated occurrences but are instead part of a larger pattern and practice of bending environmental and land use rules to allow large-scale commercial cannabis projects to proceed in undeveloped areas, amid rare prairie and wildlife ecosystems, with limited assured water supplies, and inadequate access roads. Petitioners seek a judicial declaration concerning Respondents' obligations under CEQA, the Planning and Zoning Law, and local land use

1 regulations to (1) locate large-scale commercial cannabis projects in bottomland areas suitable
2 for agriculture as intended under the County's Commercial Medical Marijuana Land Use
3 Ordinance ("CMMLUO") and (2) to adequately evaluate the access roads and water supplies
4 for these projects.

5 7. Petitioners also challenge Respondents' pattern and practice of failing to
6 manage groundwater resources interconnected with the Eel River and its non-navigable
7 tributaries in a manner consistent with California's Public Trust Doctrine. Respondents'
8 failures injure the Eel River, other surface waters, and the fish and wildlife therein, which are
9 protected public trust resources.

10 8. For these reasons, and as described further below, the County's approval of the
11 Project and adoption of the IS/MND constitute a prejudicial abuse of discretion and must be
12 set aside.

13 PARTIES

14 9. Petitioner NORTHCOAST ENVIRONMENTAL CENTER ("NEC" or
15 "Petitioner") is, and at all times herein mentioned was, a 501(c)(3) nonprofit conservation
16 organization founded in 1971 that is dedicated to the promotion and understanding of the
17 relations between people and the biosphere, and to conserve, protect, and celebrate the
18 terrestrial, aquatic, and marine ecosystems of Northern California and Southern Oregon. NEC
19 has approximately 1,400 members, including members who reside within communities in the
20 Project's vicinity. NEC has worked for many years to protect ecosystems and the quality of
21 life for people in unincorporated Humboldt County. Members of NEC objected to Project
22 approval on the basis of direct, adverse, and unmitigated affects to the environment and
23 community in the McCann area. NEC members generally enjoy Humboldt County's rural
24 character, which is threatened by certain industrial-scale marijuana sites like this Project. NEC
25 members will be harmed by the Project in their enjoyment of their personal properties, in their
26 financial interests in their properties, and in their use and enjoyment of the various forested
27 landscapes and waterways in Humboldt County from which they draw aesthetic, spiritual, and
28 recreational value. These harms are a direct result of Respondents' unlawful decision to avoid

1 the rigorous environmental review required for an EIR. NEC and its members have submitted
2 letters and comments in opposition to the Project. Petitioner NEC and its members have a clear
3 and present right to, and beneficial interest in, the performance by the Board of its public duty
4 to comply with the provisions of CEQA, the State Planning and Zoning Law, and the Code of
5 Civil Procedure. NEC was duly authorized to and does bring this action in a representative
6 capacity on behalf of its members and in the public interest.

7 10. Petitioner CITIZENS FOR A SUSTAINABLE HUMBOLDT ("CSH") is a
8 volunteer community organization that works to protect and enhance the quality of life and
9 preserve natural resources in Humboldt County, California. CSH members offer input into
10 local land use decisions in an effort to produce more sensibly planned development projects
11 with fewer environmental and fire safety impacts, and sustainable management of ground and
12 surface waters as a public trust. CSH was duly authorized to and does bring this action in a
13 representative capacity on behalf of its members and in the public interest.

14 11. Petitioner Mary Gaterud is, and at all times herein mentioned was, a member of
15 CSH, a landowner and County resident whose property is located in close proximity to the
16 Project site. Petitioner Gaterud will be directly and substantially impacted by Project
17 construction and operation.

18 12. Respondent COUNTY OF HUMBOLDT ("County") is, and at all times herein
19 mentioned was, a political and geographic subdivision of the State of California. The County
20 is, and at all relevant times was, responsible for administering and carrying out its laws and all
21 applicable federal and State laws. The County is the "lead agency" for the purposes of Public
22 Resources Code Section 21067, with principal responsibility for conducting environmental
23 review of the Project. Respondent County has the authority and duty to govern the permitting
24 of groundwater wells within its jurisdiction in order to protect the health, welfare and safety of
25 the residents of the County. Respondent County also has an ongoing and continuing duty to
26 protect public trust resources in a manner consistent with the Public Trust Doctrine.

27 13. Respondent HUMBOLDT COUNTY BOARD OF SUPERVISORS ("Board")
28 is, and at all times herein mentioned was, the duly elected legislative body of Respondent

County. As the decision-making body for the Project, the Board was charged with responsibilities under CEQA and the State Planning and Zoning Law for ensuring the Project is consistent with applicable land use regulations. On or about March 9, 2021, the Board adopted Resolution 21-26 approving the Project and adopting the IS/MND.

14. Petitioners are unaware of the true names and capacities of Respondents DOES 1 through 10, and sue such respondents by fictitious names. On information and belief, the fictitiously named respondents are also responsible for the actions described in this Petition. When the true identities and capacities of these respondents have been determined, Petitioners will amend this Petition to insert such identities and capacities. Each of the respondents is the agent and/or employee of Respondents, and each performed acts on which this action is based within the course and scope of such respondent's agency and/or employment.

15. Hereafter, Respondents County, Board, and DOES 1 through 10, inclusive are referred to as "Respondents."

16. On information and belief, Real Party in Interest ROLLING MEADOW RANCH, LLC ("Real Party in Interest" or "RMR LLC") is a Project applicant and/or landowner and is the only entity listed as the applicant on the County's Notice of Determination ("NOD") filed for the Project on or about March 10, 2021. Real Party in Interest does business in the State of California, and is a recipient of the Project approvals that are the subject of this Petition and therefore is a real party in interest within the meaning of Public Resources Code, section 21167.6.5(a).

17. On information and belief, Real Party in Interest ROLLING MEADOW RANCH, INC. ("Real Party in Interest" or "RMR Inc.") is a Project applicant and/or landowner, as referenced in Project documents. Real Party in Interest RMR Inc. does business in the State of California and was identified in the original application for the Project approvals that are the subject of this Petition and therefore is a real party in interest within the meaning of Public Resources Code, section 21167.6.5(a).

18. Petitioners are unaware of the true capacities of real parties in interest DOES 11 through 20, and sue such real parties in interest by fictitious names. On information and belief,

1 the fictitiously named real parties in interest are directly and materially affected by the actions
2 described in this Petition. When the true identities and capacities of these real parties in
3 interest have been determined, Petitioners will amend this Petition to insert such identities and
4 capacities.

5 19. Hereafter, Real Party in Interest RMR LLC, Real Party in Interest RMR Inc. and
6 DOES 11 through 20, inclusive are collectively referred to as "Real Parties in Interest."

7 BACKGROUND FACTS

8 20. Petitioners incorporate by reference each and every allegation set forth above.
9 On information and belief, Petitioners allege the following facts:

10 A. The Proposed Project and Project Site

11 21. The proposed Project site is an expansive undeveloped group of remote forested
12 ranch and timberland parcels in southern Humboldt County, near the small community of
13 McCann, on the "far side" of the middle main stem of the Eel River. McCann Road, the
14 Project's primary access route, is impassable each winter and into the spring because the
15 single-lane McCann Bridge is submerged for several months every year when the Eel River
16 swells with rain runoff.

17 22. The remote and difficult to access site is located in the Eel River canyon, an area
18 characterized by steep forested mountains interspersed with open grassland areas. The Project
19 site supports numerous sensitive natural vegetation communities including native grassland
20 prairie, riparian and vernal pools, oak woodland, and Douglas fir and redwood forests.

21 23. The Project area is home to an abundance of important biological and water
22 resources. The area provides important raptor foraging habitat and is home to a wide array of
23 special status and protected species. According to comments from the California Department
24 of Fish and Wildlife ("CDFW") on the original IS/MND, and based on the County's own data
25 in its revised IS/MND, the Project site provides habitat for 39 special-status plants and 44
26 special-status wildlife species. These protected species include the fully protected Golden
27 Eagle and the federally threatened/state threatened Northern Spotted Owl. Other special status
28 species that may be impacted by the Project include *inter alia*, the Bryant's Savannah Sparrow,

Grasshopper Sparrow, Fisher, Humboldt marten, Chinook Salmon, Coho Salmon, Steelhead Trout, Green Sturgeon, Pacific Lamprey, Foothill Yellow-legged Frog, Pacific Giant Salamander, Northern Red-legged Frog, and Western Pond Turtle. The Project site, which has historically been used for ranching and timber harvesting activities, is habitat for an abundance of other amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

24. As emphasized in CDFW's comments on the original and revised IS/MND, the Project site contains crucial foraging and nesting habitat for the fully protected Golden Eagle. This species' numbers have been drastically reduced due to, among other things, development in its dwindling habitat. CDFW commented that "the low and declining population numbers of golden eagles within northwestern California [citation] and the broader Bird Conservation Region (BCR) where the Project occurs [citation] suggest impacts to golden eagle may be potentially significant [citation]." The widely dispersed Project facilities will disturb a large area along the Eel River canyon even though surveys have repeatedly documented individuals of this now-rare species on or near the Project site. Scientific literature cited by CDFW in its comments indicates that Golden Eagles are particularly sensitive to development — expanded and more intensively used roads and large cultivation and processing buildings with lights and fans, and occasional propane generator use, such as the intensive commercial cannabis operation the Project will involve, can cause Golden Eagles to vacate nearby areas. The Project would result in the loss of important eagle foraging habitat within the known Eel River canyon eagle territory, significantly shrinking available habitat in the region.

25. The foothill yellow-legged frog, a state species of special concern, is also present on the Project site. This amphibian requires shallow, temporary pools or streams during breeding season; in winter and spring the Project site contains numerous such breeding pools and streams. Although this species was discovered on the Project site during surveys conducted in 2018, the IS/MND simply denied its presence.

26. Apart from a narrow riparian strip adjacent to the Eel River, the Project site is designated as a Very High Fire Hazard Severity Zone by the California Department of Forestry

1 and Fire Protection (“CalFire”) and the California Public Utilities Commission — the highest
2 fire risk level in California. The designation is well-deserved, as the area has burned several
3 times in the last 60 years. For example, the 1958 Whitlow Fire affected almost 2,000 acres,
4 including a large portion of the Project site. More recently, the Peaks Fire in 1990 scorched
5 1,226 acres. The Project site is at serious risk for fast-moving, wind-driven fires. The steep
6 terrain that characterizes the Project site and surrounding area, vegetated by thick oak
7 woodland and dense riparian vegetation, would make effective fire suppression difficult.

8 27. The Project site is also within a large area of southern Humboldt County that is
9 designated a State Responsibility Area (“SRA”) for wildfire response. The nearest first
10 responders for a fire or medical emergency will be the Fruitland Ridge Volunteer Fire
11 Protection District (“Fruitland Ridge VFPD”). The Project site is outside of the district
12 boundaries of Fruitland Ridge VFPD but is within its sphere of influence.

13 28. The Project will be served by only two evacuation routes, each of which
14 presents significant practical limitations — the primary access route along McCann Road and
15 over the one-lane seasonally-closed McCann Bridge and the secondary “winter” access route
16 along eight to twelve miles of unpaved, single-lane, and steep ranch roads ultimately
17 connecting to Alderpoint Road.

18 29. The proposed Project site is far from existing housing centers and other
19 services. By the County’s own estimate, the average daily 22 on-site Project employees will
20 together drive over 481,800 miles per year to access the remote site.

21 30. The Eel River, located adjacent to the Project site in southern Humboldt County,
22 is a public trust resource under California’s Public Trust Doctrine. The Eel River is a navigable
23 waterway used for boating and fishing and provides water supply for domestic and agricultural
24 purposes. It also provides habitat for many fish and wildlife protected under the Public Trust
25 Doctrine, including Coho and Chinook salmon and Steelhead as well as other special status fish
26 and wildlife.

27 31. The hydrology of the Eel River includes the river and its tributaries and a
28 potential hydrologic connection between the surface flow and groundwater in the Eel River

1 canyon. The Project's proposed year-round supply of over 4.5 million gallons per year of
2 groundwater is inextricably linked and vital to the hydrology of the Eel River, as it contributes
3 to and helps regulate the flow of and water quality within the Eel River, so it remains a
4 sustainable habitat for aquatic life during the dry summer months.

5 32. Groundwater that may be hydrologically connected to the Eel River or its
6 tributaries remains unregulated, unmanaged, and unprotected from potentially hundreds of well
7 owners and water users who extract groundwater either to substitute for or supplement surface
8 water allocations. Commercial cannabis is increasingly being grown in the County with
9 groundwater as the sole water supply without requiring project applicants to demonstrate that
10 their water source is not hydrologically connected to surface waters. This trend is encouraged
11 by the insufficient regulation of groundwater. Respondents lack an adequate system that would
12 require up front investigation and accurate and regular monitoring and reporting of
13 groundwater extraction. Instead, the existing ministerial permitting scheme, which does not
14 consider intended groundwater extraction rates and the relationship to sustainable yield, fails to
15 protect this vital public trust resource.

16 33. With respect to the Project's three wells, neither Real Parties in Interest nor
17 Respondents adequately investigated the hydrologic connection between surface flow and
18 groundwater. Therefore, the extraction of potentially interconnected groundwater may
19 contribute to the Eel River's current deteriorating environmental condition, and the condition of
20 its tributaries, thereby injuring public trust resources. Groundwater pumping from the Project's
21 wells, in combination with pumping at other wells within the Eel River stream system, can both
22 reduce the groundwater that can flow into the Eel, and may cause the water in the Eel to fall as
23 it seeps backward into the depleted groundwater. Respondents fail to manage, monitor, limit,
24 or regulate groundwater extractions from new or existing wells to ensure protection of the
25 public trust or their compliance with their authority under the Public Trust Doctrine.

26 34. The Project includes the construction of sixteen (16) greenhouses, ranging in
27 size from between approximately 17,000 and 20,000 square feet each, and several cannabis
28 processing buildings, located in four large clusters along an unpaved, narrow, ranch road with

1 multiple blind curves, steep grades, and precipitous drop offs. Up to 30 employees will access
2 the site, with an estimated daily average of 22 on-site employees. Cultivation and processing
3 operations will occur year-round, producing three to four plant cycles annually.

4 **B. Applicable Land Use Plans and Regulations**

5 **1. Humboldt County General Plan**

6 35. In October 2017, the Board adopted the General Plan Update as the new General
7 Plan for Humboldt County (the “General Plan”), a comprehensive update and revision of the
8 1984 Framework Plan. Through the General Plan, the County has committed to “[e]nsure that
9 public policy is reflective of the needs of the citizenry of a democratic society as expressed by
10 the citizens themselves,” and to “[s]upport individual rights to live in ... rural or remote areas
11 of the County while using a balanced approach to protect natural resources, especially open
12 space, water resource, fisheries habitat and water quality in cooperation with state and federal
13 agencies.” (*Id.* at p. 1-3, Guiding Principles.)

14 36. “The [General] Plan attempts to strike a balance between individual private
15 property rights and the promotion of public health, safety, and welfare. The promotion of
16 public welfare includes the protection of public trust resources, such as air, water, and
17 wildlife.” (General Plan, Governance Policy, p. 3-5.) The General Plan includes numerous
18 policies that use the word “shall” — each of these policies indicates an “unequivocal”
19 commitment of the County “to a particular course of action designed to achieve a specific
20 goal.” (General Plan, Public Guide, p. 2-3.).

21 37. **Public Safety Element.** One of the goals articulated in the General Plan is to
22 promote “[d]evelopment designed to reduce the risk of structural and wildland fires supported
23 by fire protection services that minimize the potential for loss of life, property, and natural
24 resources.” To achieve this goal, the General Plan includes the following mandatory policies:

25 a. “Plan land uses and regulate new development to reduce the potential for
26 loss of life, injury, property damage, and economic and social dislocations resulting from
27 natural and manmade hazards, including ... wildland fire risk areas....” (Policy S-P1.)
28

1 b. “Development shall conform to Humboldt County SRA Fire Safe
2 Regulations” (Policy S-P19); and

3 c. “Development within SRA shall conform to SRA Fire Safe Regulations”
4 (Policy S-S9.).

5 38. The General Plan also includes the following mandatory implementation
6 measure concerning fire safety: “Coordination with [CalFire] on [SRA] Exception Requests.
7 The County shall maintain efficient and timely procedures for processing SRA Exception
8 Requests to [CalFire].” (Implementation Measure S-IM5.)

9 39. **Water Resources Element.** The Water Resources element of the General Plan
10 reports that

11 While mean annual runoff in Humboldt County from the major rivers and streams
12 is approximately 23 million acre feet, over 80% of this flow occurs during
13 November through March, and the total potential annual groundwater yield of the
14 entire county is only approximately 100,000 acre feet. Ground water has been
15 developed for individual domestic requirements, the agricultural demands of the
16 Eel and Mad River delta areas, and to provide supplements to municipal water
17 supply. Potential concerns are saltwater intrusion in coastal areas and the effects
18 of groundwater withdrawal on streams that rely on groundwater recharge to sustain
19 flows during the dry season. (General Plan, Water Resources, p. 11-1.)

20 40. One of the goals articulated in the General Plan related to water resources
21 management is to engage in [I]and use decision making that makes use of watersheds as a
22 planning, management, and coordinating framework to cooperatively manage water and natural
23 resources with local communities, neighboring counties, and state and federal agencies.
24 (General Plan, Water Resources, p. 11-8.) The General Plan encourages the development of
25 “[a] system of water resource management that recognizes watersheds as natural systems
26 producing multiple economic, social, and environmental benefits that can be sustained in
27 perpetuity and optimized with education, sound data, cooperative public processes, adaptive
28 management, and science based leadership.” (*Ibid.*, Goal WR-G5.)

 41. To achieve the above goals, the General Plan includes the following mandatory
policies:

1 a. “Ensure that land use decisions conserve, enhance, and manage water
2 resources on a sustainable basis to assure sufficient clean water for beneficial uses and
3 future generations.” (General Plan, Water Resources, p. 11-8, Policy WR-P1);

4 b. “Impacts on Basin Plan beneficial water uses shall be considered and
5 mitigated during discretionary review of land use permits that are not served by
6 municipal water supplies” (*Ibid.*, Policy WR-P2.); and

7 42. “Development should be designed to compliment and not detract from
8 the function of rivers, streams, ponds, wetlands, and their setback areas.” (*Id.* at p. 11-
9 10, WR-P12.)

10 **2. Commercial Cannabis Permitting Under the CMMLUO**

11 43. The Project’s six (6) conditional use permits were processed and authorized
12 under the County’s medical marijuana land use ordinance, the CMMLUO (a.k.a. “Ordinance
13 1.0”).

14 44. The County prepared and approved a Mitigated Negative Declaration when
15 approving the CMMLUO in 2016.

16 45. The Mitigated Negative Declaration for the CMMLUO was challenged in this
17 Court and, as a condition of settlement, the County agreed to amend the CMMLUO with a
18 sunset date for applications of December 31, 2016 and to enact a new ordinance for commercial
19 cannabis after preparing an EIR. This second land use ordinance enacted by the County is
20 titled the Commercial Cannabis Land Use Ordinance (“CCLUO”) (a.k.a., “Ordinance 2.0”).

21 46. When the CMMLUO was adopted, one of its features was to discourage
22 cannabis cultivation in remote mountainous areas and encourage cultivation in more
23 appropriate flat agricultural land.

24 [The CMMLUO] provides incentives for the retirement, remediation and
25 relocation of existing cannabis cultivation operations to more suitable
26 agricultural land where cannabis cultivation will have few if any environ-
27 mental effects where the cultivation of field and row crops is a principally
28 permitted use, while providing strong guarantees that the former TPZ
cultivation site will be remediated and no future conversion of timberland will
occur.” (*See* Humboldt County Bd. of Supervisors, Resolution 16-14, General
Plan Consistency Analysis and Findings, p. 2.)

1 47. Thus, the promise and expressed intent of the CMMLUO was to replace more
2 environmentally destructive unpermitted illegal cannabis cultivation with permitted grow
3 operations in appropriate locations. (See HCC § 55.4.2.) To further facilitate this objective, the
4 CMMLUO includes incentives for the “retirement, remediation and relocation of existing
5 cannabis cultivation operations occurring in inappropriate or marginal environmentally
6 sensitive sites to relocate to environmentally superior sites.” (HCC § 55.4.14.)

7 48. In order to qualify for permitting an existing cannabis cultivation site, the
8 CMMLUO includes a requirement to pre-register the site within 180 days of the effective date
9 of the ordinance. (HCC § 55.4.9.4.)

10 49. The CMMLUO includes restrictions and requirements for commercial cannabis
11 permits, including *inter alia*, the restriction against conversion of timberland and the
12 requirement to comply with the County’s SRA Fire Safe Regulations. (See, e.g., HCC, §§
13 55.4.3.3, 55.4.3.4, 55.4.8.1, 55.4.11.)

14 **3. State Responsibility Area and County’s SRA Fire Safe Regulations**

15 50. Under Public Resources Code, section 4290, the board of CalFire is directed to
16 promulgate

17 “regulations implementing minimum fire safety standards related to
18 defensible space that are applicable to state responsibility area lands under
19 the authority of the department, and to lands classified and designated as
20 very high fire hazard severity zones, as defined in subdivision (i) of Section
21 51177 of the Government Code. These regulations apply to the perimeters
and access to all residential, commercial, and industrial building
construction within state responsibility areas approved after January 1,
1991, and within lands classified and designated as very high fire hazard
severity zones

22 51. CalFire has issued SRA Fire Safe Regulations that include, *inter alia*, provisions
23 for minimum access road requirements. (See 14 Cal. Code of Regs, §§ 1270.00, *et seq.*)

24 52. Under PRC, section 4290(c), CalFire’s SRA Fire Safe Regulations “do not
25 supersede local regulations which equal or exceed minimum regulations adopted by the state.”
26 In this case, the County has adopted its own set of regulations, also titled “SRA Fire Safe
27 Regulations.” In its comments, CalFire described the regulatory regime as follows:

28 In Humboldt County, developments must meet minimum fire safe
standards by constructing the project in conformance with County Fire

1 Safe Ordinance 1952, which the California Board of Forestry and Fire
2 Protection has accepted as functionally equivalent to PRC 4290. The
3 County Fire Safe Ordinance provides specific standards for roads
4 providing ingress and egress, signing of streets and buildings, minimum
water supply requirements, and setback distances for maintaining
defensible space.” (CalFire letter to Planning Director, dated July 6,
2017.)

5 53. The County’s adopted SRA Fire Safe Regulations include the mandatory
6 requirement for concurrent emergency wildland fire response and civilian evacuation.
7 Specifically, Humboldt County Code (“HCC”), § 3112-1 provides that “[r]oad and street
8 networks, whether public or private, unless exempted under Section 3111-3(b), shall provide
9 for safe access for emergency wildland fire equipment and civilian evacuation concurrently,
10 and shall provide unobstructed traffic circulation during a wildfire emergency....”

11 54. Because concurrent emergency response and civilian evacuation are mandatory,
12 the SRA Fire Safe Regulations generally require new development to have two-lane access
13 roads — defined in the County’s regulations as “Category 4” or equivalent roads. (See HCC §
14 3112-3 [requiring all roads to have two ten-foot-wide travel lanes, not including shoulders].)

15 55. The County’s SRA Fire Safe Regulations further provide that “[i]n mountainous
16 terrain and/or where geologic or other natural features make infeasible full development of two
17 ten (10) foot wide traffic lanes, a traffic lane meeting the standard for Road Category 3 (16
18 feet) shall be considered as meeting the requirements of this section for subdivisions of three
19 (3) to eight (8) parcels....” (HCC § 3112-3(b).) “In mountainous terrain and/or where geologic
20 or other natural features make infeasible full development of two ten (10) foot wide traffic
21 lanes, a traffic lane meeting the standard for Road Category 3 (16 feet) shall be considered as
22 meeting the requirements of this section for subdivisions of not more than nineteen (19)
23 parcels....” (HCC § 3112-3(c).)

24 56. The Rolling Meadow Ranch parcels that are the subject of the Project have been
25 variously described in the IS/MND, staff reports, and at decision-maker hearings as consisting
26 of between 7,110 acres and 12,072 acres. These parcels have been inconsistently described in
27 the permit application, in the original and revised IS/MND, and in staff reports as consisting of
28 between four (4) and nine (9) parcels, with the following Assessor Parcel Numbers (APNs)

1 referenced in the documents: 217-201-001, 217-181-027, 217-181-028, 217-182-001, 217-024-
2 011, 217-024-006, 217-024-010, 217-024-003, 217-025-001.

3 57. The County's SRA Fire Safe Regulations, HCC, section 3112-4, specifies that
4 "[r]oadways shall be designed and maintained to support the imposed load of fire apparatus
5 weighing at least 75,000 pounds."

6 58. Roadway grades generally cannot exceed sixteen (16) percent, and if roads are
7 steeper than this grade, they must conform to the County Roadway Design Manual. (HCC, §
8 3112-5.)

9 **C. Original Application for Conditional Use Permits, Initial Drafts of the**
10 **IS/MND, and Site Improvements in Furtherance of Project**

11 59. In late December, 2016, Real Party in Interest RMR Inc. submitted its original
12 application for conditional use permits under the County's CMMLUO. The original
13 application described the proposed Project as replacing pre-existing illegal cannabis grow
14 operations and proposing new, expanded, mixed light grow operations with a total of eighteen
15 (18) greenhouses.

16 60. On or about August 9, 2017, the County Department of Public Works issued an
17 interoffice memorandum stating that the application for the Project was incomplete and that a
18 Road Evaluation Report would be required for the McCann Road access route.

19 61. On or about January 15, 2018, a Supervising Planner with the County wrote to
20 the applicant, recommending numerous changes to a second draft of the Initial Study.

21 62. On or about January 24, 2018, CDFW prepared a referral checklist concerning
22 the requirements for the IS/MND's project description and environmental impact analysis.

23 63. On or about July 23, 2018, Transcon Environmental, a "peer review" consultant
24 retained by the County, submitted two memoranda to the County recommending revisions to
25 the draft Initial Study. One of these memoranda included a thirteen-page table describing
26 specific, substantive deficiencies in the analysis. Many of these deficiencies were never
27 adequately addressed in later drafts of the IS/MND.

1 64. On or about August 2, 2018, the County's Planning Department received a
2 Biological Report from the applicant's consultant revealing that a special-status species, the
3 foothill yellow-legged frog, was found at several locations on the Project site. A later version
4 of this Biological Report was referenced in the IS/MND, but this report was not made available
5 to the public to review during the two comment periods or thereafter.

6 65. On or about December 21, 2018, the applicant submitted to the County a revised
7 draft Initial Study (IS) for the Project. Staff provided feedback on this draft in February 2019,
8 and the applicant responded to staff's feedback almost a year later, in January 2020.

9 66. County staff's February 2019 letter summarized the feedback as follows:

10 The bar for requiring an [EIR] is whether a fair argument of a potentially significant
11 impact exists. This document does nothing to present evidence on the record that
12 there is not the potential of a significant impact or that a potentially significant
13 impact has been identified and can be mitigated to a less than significant level. This
14 document will require substantial revision in order to adequately assess whether or
15 not there are potentially significant impacts associated with the construction and
16 operation of the project. Alternatively, you may choose to prepare an EIR if the
17 impacts of the proposed project cannot be mitigated to a less than significant level.
(Letter from County planner to applicant, dated February 21, 2019, p. 4.)

15 67. In its comments on the draft IS/MND, County planning staff directed the
16 applicant to make substantial revisions to the analysis, including requests to provide *inter alia*,
17 a substantiated analysis concerning the potential hydrological connectivity of Project wells to
18 surface waters, an analysis of the impacts of applying lignin sulfonate on access roads to
19 control dust, a description of all improvements to access roads necessary to satisfy fire safe
20 standards, and a number of specific revisions to Project site plans.

21 68. While the IS/MND was being prepared, a well driller obtained well permits and
22 installed the three project wells. Also during this time, when the application for Project permits
23 was pending, the applicant made improvements to the internal ranch roads. These latter pre-
24 permit activities resulted in impacts to on-site wetlands and special status species.

25 **D. Release of Original IS/MND, Public and Agency Comments Received, and**
26 **Postponement of Planning Commission Consideration of the Project**

27 69. On or about July 17, 2020, the County released the original IS/MND for a 30-
28 day public review period that ended on August 17, 2020.

1 70. The IS/MND failed to address several of the critical deficiencies identified by
2 County staff, the County's peer review consultant, and CDFW early in the environmental
3 review process. These deficiencies concerned issues central to the Project's environmental
4 impacts, such as the adequacy of access roads under the County's standards, the potential
5 connection of wells to surface water, and complete baseline surveys for biological resources.

6 71. Commenters, including CDFW, environmental organizations, and members of
7 the public, submitted comments pointing out the serious deficiencies in the original IS/MND.
8 For example, commenters explained based on substantial evidence that the Project may have
9 significant impacts on water supplies, water quality, air quality, biological resources (including
10 special status species), fire safety, aesthetics, traffic and traffic safety, and land use. .

11 72. In letters to the County in August 2020 before the close of the comment period,
12 for example, CDFW and other commenters sent several letters to the County commenting on
13 the original IS/MND. The letters explained that the original IS/MND failed to comply with
14 CEQA in numerous ways, including:

15 a. The analysis of and mitigation for impacts to biological resources was
16 inadequate because, *inter alia*, it failed to adequately disclose, evaluate, and avoid
17 significant impacts to biological resources including special status species, wetlands,
18 and rare plant communities;

19 b. The analysis of the Project's impacts on water supplies and water quality
20 was inadequate because, *inter alia*, there is no substantial evidence showing that the
21 Project's three wells are not hydrologically connected to surface waters;

22 c. The analysis of wildfire impacts was inadequate because the analysis did
23 not apply the correct standards under the SRA Fire Safe Regulations;

24 73. The first Planning Commission meeting where this Project was considered for
25 approval was scheduled for August 20, 2020, only three days after the close of the public
26 comment period on the original IS/MND. As a result, the commission was not provided the
27 public comments on the original IS/MND. A public comments attachment typically
28 accompanies Planning Commission agenda item and is presented to the commissioners and the

1 public in advance of the meeting. Because the Planning Commission meeting was scheduled
2 immediately after the close of the public comment period on the IS/MND, the staff report to the
3 Commission did not take into consideration public comments on the IS/MND.

4 74. Despite the submission of numerous written comments objecting to the
5 IS/MND, the County Planning staff report recommended that, if no one in the audience
6 requested discussion, the Project be approved as part of the commission's consent agenda,
7 without discussion, public comment, or debate.

8 75. The staff report relied solely on a letter from the Project's well driller to
9 conclude that the Project's three wells are not hydrologically connected to surface water:

10 The applicant provided a Letter regarding well connectivity from Fisch Drilling
11 dated February 15, 2018.... The letter states that the wells are likely drilled into
12 perched bedrock given the soil type and depth of the wells. Therefore, staff
13 determined the wells are hydrologically disconnected from surface water and do
not require water rights for diversion and use from the State Water Resources
Control Board. (Staff Report to Planning Commission for August 20, 2020
meeting.)

14 76. When the Project's agenda item came up, the Planning Commission decided to
15 continue its consideration of the Project and the IS/MND to its next meeting in September.

16 77. Prior to the continued Planning Commission meeting where the Project would
17 again be brought forward for consideration, several commenters, including CDFW, submitted
18 additional letters and emails concerning the deficient IS/MND. Commenters pointed out how,
19 under CEQA's "fair argument" standard, the Project's potential to cause multiple significant
20 environmental impacts triggered the requirement to prepare an EIR.

21 78. At its meeting on September 10, 2020, the Planning Commission decided to
22 again continue its consideration of the Project and the IS/MND to its meeting on November 19,
23 2020.

24 79. On or about November 18, 2020, Commenters inquired about the continued
25 Planning Commission meeting. When commenters were informed that consideration of the
26 Project would once again be continued, commenters submitted a letter objecting to the repeated
27 noticing of the Project for consideration and subsequent continuances.

1 80. At its meeting on November 19, 2020, the Planning Commission once again
2 continued its consideration of the Project and the IS/MND, but this time the continuance was to
3 a date uncertain.

4 81. Commenters submitted a second supplemental request for public records
5 concerning the Project on November 20, 2020.

6 **E. Release of Revised IS/MND, Public and Agency Comments**
7 **Received, and Planning Commission Consideration of the Project**

8 82. On or about December 1, 2020, the County released, for a 30-day public review
9 and comment period, a revised IS/MND. The unsigned document did not state that it was a
10 revised and recirculated impact analysis.

11 83. The revised IS/MND described the proposed Project differently than the original
12 IS/MND, by, for example, acknowledging that some road improvements would be necessary to
13 bring the access roads up to even the County's Category 2 standard. The revised IS/MND also
14 included new information in the associated technical appendices. However, the primary defects
15 present in the original IS/MND, identified first by the County's planning staff, its peer review
16 consultant, and CDFW, and again by commenters, remained largely ignored or downplayed in
17 the revised and recirculated IS/MND.

18 84. According to the revised IS/MND, "[i]n June 2019, the applicant drilled three
19 wells on Parcel 1 and tested for yield. Well #1 was drilled to a depth of 240-feet; it yielded
20 20gmp. Well #2 was drilled to a depth of 200-feet; it yielded 30gpm. Well #3 was drilled to a
21 depth of 270-feet; it yielded 13gmp. (Revised IS/MND, p. 196.).

22 85. Commenters again identified numerous areas of deficient environmental impact
23 analysis in the revised IS/MND. Many of the deficiencies in the analysis previously identified
24 by CDFW, County planning staff, and the County's peer review consultant early in the
25 environmental review process had still not been corrected in the revised IS/MND. The revised
26 IS/MND is replete with unsupported facts, insufficient bases, and outright errors, including:

27 a. Access Roads (compliance with SRA Fire Safe Regulations): the revised
28 IS/MND failed to adequately analyze and mitigate the public safety and environmental

1 risks posed by locating the Project in a Very High Fire Hazard Severity Zone without
2 access roads that meet the minimum regulatory standards for width, surface, grade,
3 shoulders, and turnouts. Commenters retained a civil engineer who provided a report
4 identifying the deficiencies in the Project's primary access road, McCann Road.

5 b. Groundwater wells (no substantiated analysis of sustained yield and
6 potential hydrologic connectivity between wells and surface waters): commenters,
7 including retained expert geologists, echoed the prior comments from CDFW and
8 County planners concerning the need to demonstrate and substantiate a lack of
9 hydrologic connectivity between the Project wells and surface waters. As pointed out
10 by commenters, the retained experts at Pacific Watershed Associates "concluded that 1)
11 the sustained yield of these wells and their potential hydrologic connection to nearby
12 surface water features and aquatic resources has never been properly investigated and
13 that 2) the short-term pump tests for the three Project wells were not conducted during
14 the appropriate dry season defined in County regulations." Commenters also objected
15 to the introduction of a second letter from Fisch Drilling cited in the revised IS/MND as
16 providing additional support for the conclusion that the wells were not hydrologically
17 connected to surface waters.

18 c. Wildlife (incomplete baseline investigation for biological resources):
19 Commenters pointed out that the revised IS/MND did not accurately disclose the results
20 of wildlife, rare plant, and wetland surveys and that the analysis of impacts was based
21 upon incomplete surveys.

22 d. Inaccurate, unstable, and incomplete project description (all aspects of
23 the Project not accurately and consistently described): the revised IS/MND did not
24 define and describe the "whole of the project" in accordance CEQA's requirements.

25 e. Cumulative impacts (inadequate consideration of the Project's
26 contribution to cumulative impacts): Commenters, including CDFW, again stated that
27 the revised IS/MND did not consider how the Project's impacts to various resources
28 contributed to a cumulatively significant problem.

1 f. Growth inducing impacts (unsupported dismissal of Project's potential to
2 lead to further development in the McCann area): the revised IS/MND did not squarely
3 consider how expanded roads and extended electricity infrastructure can promote
4 development in an area that has historically lacked these facilities.

5 86. On or about December 30, 2020, before the close of the public comment period
6 on the revised IS/MND, Petitioners, CDFW, the Fruitland Ridge VFPD, California Native Plant
7 Society, Redwood Regional Audubon Society, and others submitted written comments
8 documenting how the revised IS/MND failed to comply with CEQA.

9 **F. Planning Commission Approval and Appeal to Board of Supervisors**

10 87. A Planning Commission meeting was scheduled to consider the Project for
11 approval on January 7, 2021. Once again, because of the scheduling of the IS/MND comment
12 period and Planning Commission meeting, the agenda package to the Planning Commissioners
13 did not include all public and agency comments on the IS/MND.

14 88. The staff report for the January 7, 2021 Planning Commission meeting included
15 new information that was inconsistent with the original IS/MND, prior staff reports, and the
16 revised IS/MND. For example, the staff report revealed that "road maintenance" occurred at
17 the Project site in 2019, and in conclusory fashion determined that "[w]ith the roadwork now
18 complete, all roads (using the existing prism) have been brought up to the Fire Safe standards."
19 In addition, the staff report asserted, without factual support or a transparent analysis that "An
20 examination of the well logs indicate that the depth and screening intervals are such that the
21 wells are not connected to a surface water feature, staff determined the wells are hydrologically
22 disconnected from surface water." Curiously, the staff report no longer referenced the second
23 letter from Fisch Drilling. This conflicting information concerning necessary road
24 improvements and the potential impacts that could be caused by groundwater pumping
25 attempted to supplement and cure the analysis provided in the revised IS/MND.

26 89. Commenters criticized the scheduling of the Planning Commission meeting so
27 soon after the close of the public comment period on the revised IS/MND because it stifled
28 meaningful public participation and denied the decision makers an adequate opportunity to

1 consider timely submitted public comments. Due to the County's scheduling, the Planning
2 Commission was only provided one day to review extensive comments on the revised IS/MND.
3 Commenters also objected to conflicting substantive analysis being offered in the staff report in
4 an attempt to cure deficiencies in the revised IS/MND.

5 90. When the Project came before the Planning Commission at the meeting on
6 January 7, 2021, the commissioners voted to again postpone consideration of the Project.

7 91. The staff report for the January 21 Planning Commission meeting included new
8 information that was inconsistent with that provided in the revised IS/MND, including:

9 a. Access roads: the internal ranch roads were inconsistently described as
10 "driveways" under the Humboldt County Code (there is no reference to "driveways" in
11 the revised IS/MND). A Department of Public Works memorandum concerning the
12 adequacy of Project access roads, dated January 14, 2021, was included as an
13 attachment to the staff report;

14 b. Groundwater wells: neither of the letters from Fisch Drilling, relied
15 upon in the revised IS/MND analysis, are mentioned. Instead, the staff report relied
16 solely upon the asserted "examination of the well logs" to summarily conclude that "the
17 wells are not connected to any surface water features..."; and

18 c. Biological Resources: new information and analysis concerning
19 potentially significant impacts to the fully protected Golden Eagle.

20 92. On or about January 20, 2021, following the County's release of additional
21 information regarding access roads, groundwater wells, and biological resources, commenters
22 submitted further comments addressing the supplemental analysis. These comments explained
23 how the supplemental information in the staff report and accompanying materials violated
24 CEQA's informational requirements and failed to remedy the IS/MND's flawed analysis.

25 93. On or about January 21, 2021, following a public hearing in which applicant
26 was provided multiple opportunities and an unlimited amount of time to speak while Petitioners
27 and other commenters opposing the Project were held to a three-minute cap that was strictly
28 enforced, the Planning Commission voted to approve the Project and adopt the IS/MND.

1 During the Planning Commission meeting, Chairman Bongio revealed that he had recently
2 visited the Project site and anecdotally marveled at the abundance of water after winter rains.

3 94. On or about February 2, 2021, and pursuant to HCC section 312-13.2, three
4 neighboring property owners, Francis Greenleaf, John Richards, and Patty Richards, filed a
5 Notice of Appeal and paid the required appeal fees. These parties appealed the Planning
6 Commission's decision to the Board on the grounds that the approval (1) violated CEQA
7 because the IS/MND was deficient and an EIR is required for the Project and (2) was
8 inconsistent with the County's General Plan and applicable land use regulations.

9 95. The staff report concerning the appeal from the Planning Commission decision
10 to approve the Project and adopt the revised IS/MND included still more new information. For
11 example, the staff report included new information concerning Golden Eagle surveys and a
12 comparison between the development proposed for Rolling Meadow Ranch and development
13 proposed for other large ranch properties.

14 **G. Respondents' Approval of the Project and Adoption of the IS/MND**

15 96. On or about March 9, 2021, the Board heard the appeal from the Planning
16 Commission's decision to approve the Project and adopt the IS/MND. The Board narrowly
17 denied the appeal and approved the Project by a vote of 3 to 2.

18 97. Resolution 21-26 includes the Board's findings of fact and the adopted
19 Mitigation Monitoring and Reporting Program.

20 98. In summarizing and addressing comments concerning the IS/MND and the
21 County's compliance with CEQA and the County's land use regulations, the Board's adopted
22 findings present an incomplete, inaccurate, and misleading characterization of the substantial
23 evidence supporting agency and public comments. For example, the findings selectively and
24 inaccurately addressed only a small fraction of substantial evidence supporting the fair
25 arguments presented that the Project may cause significant environmental impacts. The
26 substantial evidence that was cited was also mischaracterized. For example, the findings
27 summarily asserted, without citations or factual support, that issues concerning potentially
28

1 significant impacts raised by County planning staff and CDFW were either “outdated” or had
2 been “addressed.”

3 99. On or about March 10, 2021, the County filed a CEQA NOD concerning the
4 adopted revised IS/MND and Project approval.

5 LEGAL BACKGROUND

6 100. Petitioners incorporate by reference each and every allegation set forth above.

7 A. CEQA

8 101. Courts have consistently held that the foremost principle under CEQA is that it
9 be “interpreted in such a manner as to afford the fullest possible protection to the environment
10 within the reasonable scope of the statutory language.” (*Citizens of Goleta Valley v. Bd. of*
11 *Supervisors* (1990) 52 Cal.3d 553 (1990) 52 Cal.3d at 563-64, quoting *Friends of Mammoth v.*
12 *Bd. of Supervisors* (1972) 8 Cal.3d 247, 259.) Courts have further held that “[i]t is, of course,
13 too late for a grudging, miserly reading of CEQA.” (*Laurel Heights Improvement Assn. v.*
14 *Regents of California* (1988) 47 Cal.3d at 390 (*Laurel Heights I*), citing *Bozung v. Local*
15 *Agency Formation Comm’n.* (1975) 13 Cal.3d 263, 274.) An agency’s action violates CEQA if
16 it “thwarts the statutory goals” of “informed decision making” and “informed public
17 participation.” (*Kings Cnty. Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 712.)

18 102. CEQA requires public notice and participation in decisions that impact
19 communities and the natural environment. These core requirements are in fact at the heart of
20 CEQA’s dual purposes: (1) to inform decision makers and the public about the potential,
21 significant environmental effects of a project, and (2) to require public agencies to avoid or
22 reduce environmental damage when feasible by requiring environmentally superior alternatives
23 and all feasible mitigation measures. (PRC, §§ 21002.1, 21151; CEQA Guidelines, §§
24 15002(a)(1)-(3); *Citizens of Goleta Valley, supra*, 52 Cal.3d at 564.)

25 103. The environmental review process created by CEQA carries out this mandate by
26 bringing citizens’ environmental concerns about a proposed project to the attention of public
27 agencies. Indeed, the express purposes of engaging the public in the review of an EIR or
28 negative declaration is to share expertise, disclose agency analyses, check for accuracy, detect

1 omissions, discover public concerns, and solicit counter proposals. (CEQA Guidelines, §
2 15200.) The lead agency has a duty to fulfill the basic purposes of CEQA, including soliciting
3 and responding to comments from the public and other agencies concerned with the project.
4 (CEQA Guidelines, § 15073(j).) The lead agency is required to issue its notice of intent to
5 adopt a negative declaration “sufficiently prior to adoption” in order to “allow the public and
6 agencies the review period provided under Section 15105.” (CEQA Guidelines, § 15072(a).)

7 104. Because the EIR is the “heart of CEQA,” the statute contains a strong
8 presumption in favor of requiring a lead agency to prepare an EIR whenever a project “may”
9 have a significant environmental effect. (PRC, § 21151 [“All local agencies shall prepare, or
10 cause to be prepared by contract, and certify the completion of, an environmental impact report
11 on any project that they intend to carry out or approve which may have a significant effect on
12 the environment”], emphasis added; *see also* CEQA Guidelines, §§ 15003(a), 15064(f); *Sierra*
13 *Club v. State Board of Forestry* (1994) 7 Cal.4th 1215, 1229.) Under the “fair argument”
14 standard, a lead agency must prepare an EIR when “it can be fairly argued on the basis of
15 substantial evidence that the project may have significant environmental impact.” (*Sundstrom*
16 *v. County of Mendocino* (1988) 202 Cal.App.3d 296, 310, quoting *No Oil, Inc. v. City of Los*
17 *Angeles* (1974) 13 Cal.3d 68, 75, emphasis added; *see also* Pub. Res. Code §§ 21080(c)(1)-(2),
18 21082.2, 21064.5, 21080(c)(1)-(2), 21080(d), 21082.2; *see also* CEQA Guidelines § 15064(f)-
19 (h); *see also Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th
20 144, 150-151; *see also Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994)
21 29 Cal.App.4th 1597, 1601-1602.) The “fair argument” standard establishes a “low threshold”
22 for requiring the preparation of an EIR. (*No Oil, Inc., supra*, 13 Cal.3d at 75; *see also*
23 *Sundstrom, supra*, 202 Cal.App.3d at p. 310.)

24 105. If there is substantial evidence supporting a fair argument that a project may
25 cause one or more significant impacts, contrary evidence supporting a no significant effect
26 determination is not adequate to support a decision to dispense with an EIR. (CEQA
27 Guidelines, § 15064(f)(5), (g), (h); *see also* PRC, § 21080(e)(1); *see also Pocket Protectors v.*
28 *City of Sacramento* (2004) 124 Cal. App. 4th 903, 935; *Sierra Club v. County of Sonoma*

1 (1992) 6 Cal.App.4th, 1307, 1316.) When reviewing a negative declaration for sufficiency
2 under CEQA, “neither the lead agency nor a court may ‘weigh’ conflicting substantial evidence
3 to determine whether an EIR must be prepared in the first instance.” (*Pocket Protectors, supra*,
4 937 124 Cal.App.4th at p. 935.) Where a disagreement arises regarding the validity of a
5 Negative Declaration, the courts require an EIR. This is because, “[i]t is the function of an
6 EIR, not a negative declaration, to resolve conflicting claims, based on substantial evidence, as
7 to the environmental effects of a project.” (*Ibid.*)

8 106. “The purpose of an [EIR] is to provide public agencies and the public in general
9 with detailed information about the effect which a proposed project is likely to have on the
10 environment; to list ways in which the significant effects of such a project might be minimized;
11 and to indicate alternatives to such a project.” (PRC, § 21061; *see also id.* at § 21002.1.) An
12 EIR “serves not only to protect the environment but also to demonstrate to the public that it is
13 being protected.” (CEQA Guidelines, §15003(b).) “The EIR process protects not only the
14 environment but also informed self-government.” (*Laurel Heights I, supra*, 47 Cal.3d at p.
15 392.) “The EIR process will enable the public to determine the environmental and economic
16 values of their elected and appointed officials thus allowing for appropriate action come
17 election day should a majority of voters disagree.” (*People v. County of Kern* (1974) 39
18 Cal.App.3d 830, 842.)

19 107. A “project” is “the whole of an action” directly undertaken, supported, or
20 authorized by a public agency “which may cause either a direct physical change in the
21 environment, or a reasonably foreseeable indirect physical change in the environment.” (PRC,
22 § 21065; 14 CCR, § 15378(a).) For this reason, CEQA is concerned with an action’s ultimate
23 “impact on the environment.” (*Bozung, supra*, 13 Cal.3d at p. 283.) The entire project being
24 proposed for approval, and not some smaller aspect of the project as a whole, must be
25 accurately described in an MND or EIR. (*Habitat & Watershed Caretakers v. City of Santa*
26 *Cruz* (2013) 213 Cal.App.4th 1277, 1297; *Christward Ministry v. Superior Court* (1986) 184
27 Cal.App.3d 180; CEQA Guidelines § 15071(a).) A lead agency may not split a single large
28 project into small pieces so as to avoid environmental review of the project as a whole. (*Orinda*

1 *Ass'n v. Bd. of Supervisors* (1986) 182 Cal.App.3d 1145, 1171; *Arviv Enterprises, Inc. v. South*
2 *Valley Area Planning Comm'n.* (2002) 101 Cal.App.4th 1333, 1345)

3 108. The initial study must “provide documentation of the factual basis for the
4 finding in a Negative Declaration that a project will not have a significant effect on the
5 environment.” (CEQA Guidelines, § 15063(c)(5).))

6 109. “The decision as to whether a project may have one or more significant effects
7 shall be based on substantial evidence in the record of the lead agency.” (CEQA Guidelines, §
8 15064.) Substantial evidence includes facts, reasonable assumptions predicated on facts, and
9 expert opinion supported by facts; however, it does not include argument, speculation, or
10 unsubstantiated opinion or narrative. (PRC, §§ 21080(e), 21082.2(c); CEQA Guidelines, §
11 15064(f)(5).)

12 110. “Significant environmental effect” is defined broadly as “a substantial or
13 potentially substantial adverse change in the environment.” (Pub. Res. Code, § 21068; *see also*
14 CEQA Guidelines, § 15382.) To satisfy CEQA’s test for significance, an effect on the
15 environment need not be “momentous” — rather, it is enough that the impacts are “not trivial.”
16 (*No Oil, Inc., supra*, 13 Cal.3d at p. 83.)

17 111. “[T]he opinions of area residents, if based on direct observation, may be relevant
18 as to aesthetic impact and may constitute substantial evidence ... no special expertise is
19 required on this topic.” (*Pocket Protectors, supra*, 937 124 Cal.App.4th at p. 935.)

20 112. Under the CEQA Guidelines, a “potential substantial impact on endangered, rare
21 or threatened species” such as the fully protected Golden Eagle, the federally threatened/state
22 threatened Northern Spotted Owl, or the threatened coho salmon is deemed “per se significant.”
23 (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40
24 Cal.4th 412, 449, citing CEQA Guidelines, § 15065(a)(1); *see also Defend the Bay v. City of*
25 *Irvine* (2004) 119 Cal. App. 4th 1261, 1273-1274.))

26 113. CEQA also requires lead agencies and responsible agencies to integrate the EIR
27 process with other permitting processes. (*See Banning Ranch Conservancy v. City of Newport*
28 *Beach* (2017) 2 Cal. 5th 918, 936.)

1 [CEQA] sets out a fundamental policy requiring local agencies to integrate the
2 requirements of this division with planning and environmental review
3 procedures otherwise required by law ... so that all those procedures, to the
4 maximum feasible extent, run concurrently, rather than consecutively.
5 [Citation.] The [CEQA Guidelines] similarly specify that to the extent
6 possible, the environmental impact report process should be combined with the
7 existing planning, review, and project approval process used by each public
8 agency. [Citation.]” (*Id.* at p. 936, citing PRC, § 21003 and CEQA
9 Guidelines, § 15080.)

10 114. A responsible agency has an independent duty to review the EIR prepared by the
11 lead agency and “issue its own findings regarding the feasibility of relevant mitigation
12 measures or project alternatives that can substantially lessen or avoid significant environmental
13 effects. (*Riverwatch v. Olivenhain Mun. Dist.* (2009) 170 Cal.App.4th 1186, 1207; *see also*
14 CEQA Guidelines, §§ 15096(g)(1)-(2).)

15 115. CDFW is a Responsible Agency and a Trustee Agency under CEQA for projects
16 that require an incidental take permit under the California Endangered Species Act (“CESA”)
17 or a Lake and Streambed Alteration Agreement (“LSAA”) under Fish & Game Code, § 1602.
18 (*See* PRC § 21069; *see also* CEQA Guidelines, §§ 783.3(a), 15050(b), 15251(o).) Responsible
19 agencies are responsible for ensuring the MND prepared for an approved project adequately
20 analyzes project impacts within the responsible agency’s jurisdiction and expertise. (*See*
21 CEQA Guidelines, § 15096(e)-(g).)

22 116. CEQA also disallows approval of a project that fails to comply with other laws,
23 including CESA. A lead agency may not approve a project with significant unavoidable
24 impacts unless it is “otherwise permissible under applicable laws and regulations.” (PRC, §
25 21002.1(c).)

26 **B. Planning and Zoning Law**

27 117. The California State Planning and Zoning Law requires the legislative body of
28 each county to adopt a general plan for the physical development of the county. (Gov. Code,
§§ 65300.) The County’s General Plan is a fundamental land use planning document and
serves as the constitution for future development within the County. (*See* Gov. Code, §§
65009, 65850.) Land use actions, including the approvals associated with the Project, must be
consistent with the General Plan. (*See Families Unafraid to Uphold Rural etc. County v. Board*

1 of Supervisors (1998) 62 Cal.App.4th 1332, 1336 (*FUTURE*); see also *California Native Plant*
2 *Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 636.) To be found consistent
3 with the General Plan, the approved Project must further the objectives and policies of the
4 General Plan and may not prevent their attainment. (*Ibid.*).

5 118. Inconsistency with even one mandatory general plan policy can be “enough to
6 scuttle a project.” (See *FUTURE*, *supra*, 62 Cal.App.4th at p. 1341, citing *San Bernardino*
7 *Valley Audubon Society v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 753.).

8 C. Public Trust Doctrine

9 119. The Public Trust Doctrine establishes that the waters, stream and lake beds, and
10 fish and wildlife in the State of California belong to the people of the State and that the State
11 holds those resources in trust for the people and for future generations. (See *Environmental*
12 *Law Foundation v. State Water Resources Control Bd.* (2018) 26 Cal.App.5th 844, 856 (*ELF*).)
13 The Public Trust Doctrine confers the authority and responsibility to Respondents to protect
14 and manage public trust resources for the benefit of the people of the State.

15 120. Navigable waters and fish in California are traditional public trust resources held
16 in trust by the State as trustee for the people of California. The Eel River and the resources that
17 are part of and dependent upon the river system are public trust resources.

18 121. Nearly 40 years ago, the California Supreme Court extended the Public Trust
19 Doctrine’s protections to non-navigable tributaries of larger waterways. (See *National*
20 *Audubon Society v. Superior Court* (1983) 33 Cal.3d 419). The Court in *National Audubon*
21 recognized the authority of the State to manage and regulate these non-navigable tributaries to
22 protect public trust resources. More recently, the Third District Court of appeal confirmed that,
23 while the Public Trust Doctrine does not apply to groundwater itself, the doctrine does apply “if
24 extraction of groundwater adversely impacts a navigable waterway to which the public trust
25 doctrine does apply.” (*ELF*, *supra*, 26 Cal.App.5th at p. 859 [“the determinative fact is the
26 impact of the activity on the public trust resource”].)

27 122. Respondents have authority under the Public Trust Doctrine to protect various
28 public trust resources on behalf of the citizens of Humboldt County. Respondent County, as

1 the entity permitting wells used to extract groundwater from geologic formations that are
2 potentially interconnected with surface waters, has a duty under the Public Trust Doctrine to
3 protect and manage any such interconnected groundwater to preserve surface water flows.

4 **JURISDICTION AND VENUE**

5 123. Respondents have taken final agency actions by adopting the IS/MND and
6 approving the Project. Respondents had a duty to comply with applicable state laws, including
7 CEQA and the State Planning and Zoning Law, prior to exercising their discretion to issue the
8 Project's CUPs.

9 124. This Court has jurisdiction over the matters alleged in this Petition pursuant to
10 Code of Civil Procedure, sections 526, 527, 1060, 1087, 1085 and 1094.5, and Government
11 Code, section 65860. Petitioner files this Petition for Writ of Mandate and Complaint for
12 Declaratory and Injunctive Relief pursuant to Code of Civil Procedure, sections 526 (injunctive
13 relief), 527 (injunctive relief), 1060 (declaratory relief), 1085 (traditional mandate), and 1094.5
14 (administrative mandate), and Public Resources Code, sections 21168 and/or 21168.5 (judicial
15 review under CEQA).

16 125. The Court has jurisdiction to issue declaratory and injunctive relief pursuant to
17 Code of Civil Procedure, section 1060 and section 525 *et seq.*, respectively.

18 126. Venue for this action properly lies in the Superior Court for the State of
19 California in and for the County of Humboldt pursuant to sections 393(b), 394, and 395 of the
20 Code of Civil Procedure. The Respondents and the Project are located within the County of
21 Humboldt. Many of the significant environmental impacts from the Project that are the subject
22 of this lawsuit would occur in Humboldt County, and the Project would affect the interests of
23 County residents, including Petitioners' members who reside in the County.

24 **STANDING AND EXHAUSTION OF ADMINISTRATIVE REMEDIES**

25 127. Petitioners have standing to assert the claims alleged in this Petition because
26 each of them is beneficially interested in this matter. Petitioner Gaterud is an owner of
27 property located near the Project site and resides and works year-round at this property.
28

128. Pursuant to Code of Civil Procedure, section 367, Petitioners NEC and CSH have standing to sue if either organization or someone the respective organization represents has either suffered or is threatened with an injury of sufficient magnitude to reasonably assure the relevant facts and issues will be adequately presented. Here, Petitioners NEC and CSH have standing to sue because each organization has members who are threatened with injuries caused by the County's approval of this Project. Petitioners NEC and CSH have members who visit the Project area, including the adjacent section of the main stem of the middle fork of the Eel River, for recreation and enjoyment. As non-profit organizations that represent individuals who live, work or recreate in the Project's vicinity who will be directly affected by the significant environmental impacts of the Project, Petitioners NEC and CSH have direct interests in ensuring that Respondents fulfill their duties under CEQA, the Planning and Zoning Law, and other applicable laws.

129. Each of the Petitioners would be impacted by Project construction and operation. All Petitioners have an independent beneficial interest in Respondents performing their public duties and in the faithful execution of the law by public officers.

130. Prior to Respondents' decision to approve the Project, Petitioners or, in the case of Petitioner NEC and CSH, their members, actively participated in the administrative process and objected to the Project.

131. Petitioners have performed any and all conditions precedent to filing the instant action and have exhausted available administrative remedies to the extent possible and required by law. The determinations by Respondents are final and no further administrative appeal procedures are provided by state or local law. Petitioners, their members (where applicable), and other members of the public presented orally and/or in writing their specific objections to the decisions of the County at the public meetings and hearings.

STATUTES OF LIMITATIONS

132. Petitioners incorporate by reference each and every allegation set forth above.

133. On information and belief, on March 9, 2021, Respondent Board adopted Resolution 21-26, thereby approving the Project.

134. On or about March 10, 2021, Respondents filed an NOD.

135. Pursuant to Public Resources Code, section 21167, subdivision (b) and CEQA Guidelines, sections 15094(g) and 15112(c)(1), the statute of limitations for a CEQA challenge to the Respondents' decision to adopt the IS/MND expires 30 days after the NOD is filed.

136. This Verified Petition was filed in Humboldt County Superior Court on or before April 9, 2021 — within 30 days of the date the NOD was filed.

137. Pursuant to Government Code, section 65009, subdivision (c), the statute of limitations for a State Planning and Zoning Law challenge to the Respondents' decision to approve a project based on inconsistency with its General Plan, zoning ordinances and zoning designations, is 90 days after Respondents' decision became final.

138. This Verified Petition is filed in Humboldt County Superior Court prior to the 90th day following Respondents' final decision on the Project.

139. Petitioners file this Verified Petition prior to the expiration of any and all applicable statute of limitations.

NOTICE OF CEQA SUIT

140. On April 6, 2021, Petitioners sent by email and mail a letter to Clerk of the Board of Supervisors, Kathy Hayes, and to County Counsel, Jefferson Billingsley, giving notice to Respondents of Petitioners' intent to file this lawsuit on or before April 9, 2021, seeking to invalidate the County's various actions adopting the IS/MND for the Project and Project itself. (See Exhibit A: letter to Clerk of the Board and to County Counsel.) This letter satisfied Petitioners' duties under Public Resources Code section 21167.5.

141. Petitioners will provide notice of this action to the Attorney General of the State of California, by serving a true and correct copy of this Verified Petition along with a notice of its filing, as required by Public Resources Code, § 21167.7 and Code of Civil Procedure, § 388.

PREPARATION OF THE RECORD

142. Pursuant to Public Resources Code, § 21167.6, subdivision (b)(2), Petitioners elect to prepare the administrative record of proceedings in this action. (See Exhibit B: Notice of Petitioners' Election to Prepare the Administrative Record.)

1 **ARBITRARY AND CAPRICIOUS ACTIONS**

2 143. Petitioners bring this action on the basis, among others, of Government Code
3 section 800, and other applicable laws, which entitles Petitioners to attorneys' fees in actions to
4 overturn agency decisions that are arbitrary and capricious.

5 **PRIVATE ATTORNEY GENERAL DOCTRINE**

6 144. Petitioners bring this action as private attorneys general pursuant to Code of
7 Civil Procedure section 1021.5, and any other applicable legal theory, to enforce important
8 rights affecting the public interest.

9 145. Issuance of the relief requested in this Verified Petition will (1) confer a
10 significant benefit on the general public by requiring Respondents to carry out their duties
11 under CEQA, the Planning and Zoning Law, and other applicable laws before approving the
12 Project and will (2) result in the enforcement of important rights affecting the public interest by
13 requiring that development of a Project that complies with CEQA and is consistent with the
14 County's General Plan and land use regulations.

15 146. The necessity and financial burden of enforcement are such as to make an award
16 of attorneys' fees appropriate in this case.

17 147. Pursuant to California Code of Civil Procedure section 388, Petitioners will
18 serve a copy of this Petition on the California Attorney General's office to give notice that
19 Petitioners brought this lawsuit as a private attorney general under Code of Civil Procedure
20 section 1021.5.

21 **IRREPARABLE HARM**

22 148. Petitioners have no plain, speedy, or adequate remedy in the course of ordinary
23 law unless this Court grants the requested writ of mandate to require Respondents to set aside
24 the Project Approvals.

25 149. Petitioners are entitled to injunctive relief under Code of Civil Procedure section
26 526 because the Project construction and operation threatens irreparable environmental harm.
27 Unless enjoined, Real Parties in Interest will commence construction and operation of the
28 Project despite its potentially significant effects on the environment and with inadequate

1 mitigation, causing unlawful and unnecessary environmental degradation. Petitioners would
2 thereby suffer irreparable harm due to the County's failure to take the steps required by law to
3 adequately protect the environment. Injunctive relief is thus warranted under Code of Civil
4 Procedure section 525 et seq. and Public Resources Code section 21168.9 to prevent irreparable
5 harm to the environment.

6 150. In the absence of such remedies, Respondents' approvals will remain in effect in
7 violation of state and local law and Petitioners will be irreparably harmed. No money damages
8 or legal remedy could adequately compensate Petitioners for that harm.

9 **RELIEF REQUESTED**

10 151. Petitioners incorporate by reference each and every allegation set forth above.

11 152. Petitioners seek a writ of mandate, temporary and permanent injunctive relief,
12 costs, and attorneys' fees.

13 **D. Alternative and Peremptory Writs of Mandamus**

14 **(Code Civ. Proc., §§ 1085, 1087, 1094.5; PRC, §§ 21168, 21168.5; Gov. Code, §§**
15 **65860, 65030.1)**

16 153. Because the Verified Petition challenges a quasi-adjudicative administrative
17 action for which a hearing was required, Petitioners seek alternative and peremptory writs of
18 mandate pursuant to Code of Civil Procedure section 1094.5. Petitioners also seek a writ of
19 mandate pursuant to Code of Civil Procedure section 1087, which provides that "[t]he writ may
20 be either alternative or peremptory."

21 154. Petitioners seek alternative and peremptory writs of mandate requiring the
22 County to void its approval of the Project and adoption of the IS/MND. Petitioners seek to
23 void such actions on the grounds that the County did not substantially comply with CEQA and
24 the State Planning and Zoning Law before taking those actions. (*See* PRC, § 21168; Gov.
25 Code, §§ 65860, 65030.1.)

26 155. Petitioners claim for declaratory relief challenges the County's pattern and
27 practice of approving large-scale commercial cannabis projects without adequately considering
28 their cumulative impacts and without ensuring those projects have reliable water supplies and
otherwise comply with County land use regulations. Because these approvals may be

1 ministerial, may not require a hearing, and are part of a broader program or policy, Petitioners
2 challenge these actions under Code of Civil Procedure section 1085 (traditional mandamus) and
3 Public Resources Code, section 21168.5.

4 **E. Temporary and Permanent Injunctive Relief**

5 (Code Civ. Proc., §§ 526, 527, 1094.5; Civ. Code, § 3422.)

6 76. Petitioners request injunctive relief pursuant to Code of Civil Procedure sections
7 526 and 527, and Civil Code section 3422.

8 156. Petitioners also request an administrative stay pursuant to Code of Civil
9 Procedure section 1094.5, subdivision (g), which provides that the court “may stay the
10 operation of the administrative order or decision pending the judgment of the court,” if the
11 court concludes that such a stay is not “against the public interest.”

12 **F. Attorneys’ Fees and Costs**

13 (Code Civ. Proc., §§ 1021.5, 1032; Gov. Code, §§ 800)

14 157. This litigation involves the enforcement of important rights affecting the public
15 interest. Accordingly, if Petitioners are successful in prosecuting this action, Petitioners will
16 confer a substantial benefit on the citizens of the region and state, and therefore will be entitled
17 to an award of reasonable attorneys’ fees pursuant to Code of Civil Procedure section 1021.5.

18 158. Petitioners also bring this action pursuant to Government Code section 800,
19 which awards a petitioner up to \$7,500.00 in attorneys’ fees in actions to overturn agency
20 decisions that are arbitrary and capricious.

21 159. Additionally, Petitioners request reimbursement for costs pursuant to Code of
22 Civil Procedure section 1032.

23 **FIRST CAUSE OF ACTION**

24 **Violation of CEQA – Violation of CEQA – Inadequate IS/MND**
25 **(CCP § 1094.5, PRC § 21000, *et seq.*, CEQA Guidelines, 14 CCR § 15000, *et seq.*)**
By Petitioner Against Respondents

26 160. Petitioners incorporate by reference each and every allegation set forth above.

27 161. CEQA requires the preparation of an EIR whenever there is a “fair argument”
28 that a project “may have a significant effect on the environment.” (PRC, § 21151.) Even if

1 other substantial evidence supports the opposite conclusion, the County was nevertheless
2 required to prepare an EIR once a fair argument had been presented. (PRC, § 21080(c).)

3 162. CEQA requires that substantial evidence in the administrative record support all
4 of the agency's findings and conclusions, including those contained in the IS/MND, and that
5 the agency explain how the evidence in the record supports the agency's conclusions.

6 163. Respondents committed a prejudicial abuse of discretion and failed to proceed in
7 a manner required by law because the Project relies on an IS/MND that fails to meet CEQA's
8 requirements for the disclosure, analysis, mitigation, reduction, and/or avoidance of significant
9 environmental impacts that may be caused by the Project, including without limitation direct,
10 indirect, and cumulative potentially significant impacts to biological resources, wildfire risks
11 and safety, emergency evacuation, water supplies, water quality, traffic, aesthetics, land use
12 (including growth inducing impacts), and energy consumption.

13 164. **Environmental Setting.** The IS/MND fails to comply with CEQA's
14 requirement to provide an adequate and accurate description of the environmental setting of the
15 Project area. (CEQA Guidelines, § 15125.) The IS/MND's description of the environmental
16 setting is inadequate because, *inter alia*, it fails to:

- 17 a. accurately describe the condition of the Project's primary access route
18 and the internal ranch roads that will be used to access Project facilities;
19 b. adequately describe and disclose the Project area's importance as habitat
20 and/or a corridor and linkage for special status wildlife in the vicinity of the Project;
21 c. establish that adequate surveys were performed for all appropriate
22 species and habitat types; and
23 d. fully and accurately describe and disclose the results of all biological
24 surveys conducted on the Project site.

25 165. **Project Description.** The IS/MND project description is legally inadequate
26 because, *inter alia*, the description:

- 27 a. fails to accurately describe the whole of the Project;
28 b. fails to consistently describe the Project;

1 c. fails to define the Project characteristics in sufficient detail to enable
2 impact analysis; and

3 d. fails to describe and analyze the Project as it was ultimately approved by
4 the County at the Board's March 9, 2021 hearing.

5 166. **Biological Resources.** The IS/MND fails to adequately disclose, analyze,
6 and/or mitigate the Project's potentially significant direct, indirect, and cumulative impacts to
7 biological resources, including numerous special status animal and plant species and important
8 habitats affected by the Project. Those species include, but are not limited to: Golden Eagle,
9 Foothill Yellow-Legged Frog, Northern Spotted Owl, Humboldt marten, Western Bumblebee,
10 Red-Legged Frog, Grasshopper Sparrow, Bryant's Savannah Sparrow, Mountain Plover,
11 Northern Harrier, White-Tailed Kite, Pacific Gilia, Short-Leaved Evax, Baker's navarretia,
12 Kneeland prairie pennycress, Maple-Leaved checkerbloom, Siskiyou checkerbloom, beaked
13 tracyina, leafy reed grass, Hitchcock's blue-eyed grass, Humboldt County milk-vetch, and
14 other special status species. The onsite native grassland habitats include California oat grass
15 prairie and blue wildrye prairie. The IS/MND's biological resources analysis is inadequate
16 because, *inter alia*, the analysis:

17 a. fails to accurately describe the baseline of existing environmental
18 conditions of the biological resources on the Project site;

19 b. fails to adequately disclose, analyze, and/or mitigate the Project's
20 significant impacts to plant and animal species (including special status species);

21 c. fails to adequately disclose, analyze, and/or mitigate the Project's
22 significant impacts on habitats and features such as riparian wetlands, non-riparian
23 wetlands, streams, and springs; and

24 d. relies on mitigation measures that are vague, ineffective, deferred, and/or
25 unenforceable.

26 167. **Fire Safety.** Although the Project site is located in an area designated by
27 CalFire as a Very High Fire Hazard Severity Zone, Respondents failed to adequately disclose
28 or analyze impacts and adopt feasible mitigation measures that would reduce or avoid the

1 Project's potentially significant direct, indirect, and cumulative wildfire-related impacts. The
2 IS/MND's analysis of wildfire-related impacts is inadequate because, *inter alia*, the wildfire
3 analysis:

4 a. fails to accurately describe the baseline of existing environmental
5 conditions relating to wildfire on the Project site;

6 b. fails to adequately disclose, analyze, and/or mitigate the Project's
7 significant wildfire-related impacts, including but not limited to the likelihood that the
8 Project would increase the risk and intensity of wildfires;

9 c. fails to adequately disclose, analyze, and/or mitigate the Project's
10 significant impacts related to emergency evacuation; and

11 d. fails to adequately assess or mitigate the Project's impacts on area fire
12 protection services and utilities.

13 168. **Water Supply.** The IS/MND does not adequately disclose, analyze, and/or
14 mitigate the environmental consequences of supplying water to the Project. The IS/MND's
15 water supply analysis is inadequate because, *inter alia*, the water supply analysis:

16 a. fails to adequately analyze the impacts of providing the Project with
17 long-term supply of groundwater from the Project's three (3) wells;

18 b. fails to accurately describe the uncertainty surrounding the identified
19 groundwater supplies in light of geology underlying the Project site and increasing
20 drought conditions;

21 c. fails to identify alternative water supplies for the Project and analyze the
22 impact associated with using those supplies; and

23 d. presents conflicting information regarding groundwater use and the use
24 of captured rainwater for cultivation, undermining the documents' ability to accurately
25 disclose, analyze, and/or mitigate the impacts associated with supplying water to the
26 Project.

27 169. **Cultural Resources.** The IS/MND fails to adequately disclose, analyze, and/or
28 mitigate the Project's significant direct, indirect, and cumulative impacts to cultural resources.

1 The Project has the potential to disturb both Native American and non-native human remains.
2 The IS/MND purports to have analyzed impacts to these and other cultural resources.
3 However, the InterTribal Sinkyone Wilderness Council, a consortium of ten federally
4 recognized Northern California Indian Tribes, submitted a letter prior to the appeal hearing
5 alerting the Board to "Sinkyone cultural elements" which the tribes believed "will be
6 irreparably harmed if this project is approved." The letter objected to Project approval and
7 requested tribal consultation pursuant to Assembly Bill 52. The Board disregarded the tribes'
8 request for consultation.

9 **170. Air Quality.** The IS/MND fails to adequately disclose, analyze, and/or mitigate
10 the Project's significant direct, indirect, and cumulative impacts to air quality. The Project will
11 have significant and long-term air quality impacts that will be felt by Project employees, by
12 residents in the vicinity of the Project, and by sensitive wildlife, and that will have a negative
13 impact on wildlife habitat in the region. While the IS/MND acknowledges the Project may
14 result in significant air quality impacts, it fails to adopt feasible mitigation measures that would
15 reduce these impacts.

16 **171. Traffic and Traffic Safety.** The IS/MND fails to adequately disclose, analyze,
17 and/or mitigate the Project's significant direct, indirect, and cumulative traffic and traffic safety
18 impacts that will result from reliance on narrow access roads that do not meet the County's
19 standards.

20 **172. Hydrology and Water Quality.** The IS/MND fails to adequately disclose,
21 analyze, and/or mitigate the direct, indirect, and cumulative impacts the Project will have on
22 hydrology and water quality.

23 **173. Energy.** The IS/MND fails to adequately disclose, analyze, and/or mitigate the
24 Project's significant direct, indirect, and cumulative impacts on energy due to the need to
25 extend electricity infrastructure and supply to the remote Project facilities, the substantial
26 increase in vehicle miles traveled, and generator- and commute-related fuel consumption the
27 Project will create.

1 174. **Aesthetics.** The IS/MND fails to adequately disclose, analyze, and/or mitigate
2 the Project's direct, indirect, and cumulative impacts to aesthetics.

3 175. **Land Use.** The IS/MND fails to disclose, analyze, and mitigate the Project's
4 inconsistency with applicable land use plans, including but not limited to: the County's General
5 Plan, the CMMLUO, and the County's SRA Fire Safe Regulations.

6 176. **Growth-inducing impacts.** The IS/MND fails to adequately disclose, analyze,
7 and/or mitigate the Project's significant growth-inducing impacts because, *inter alia*, the
8 IS/MND contains limited and inadequate discussion of the ways in which expanding roads and
9 extending electricity infrastructure into a rural, undeveloped area can remove barriers to growth
10 and encourage other development activities.

11 177. **Cumulative Impacts.** The IS/MND fails to adequately disclose, analyze,
12 and/or appropriately mitigate potentially significant cumulative impacts. The cumulative
13 impact analysis is perfunctory and fails to satisfy CEQA. The analysis failed to disclose the
14 geographic scope for each area of cumulative impacts considered. Nor did the analysis disclose
15 and consider all relevant past, present, and reasonably foreseeable probable future projects that
16 will cause impacts that can combine with the impacts of this Project. For example, the
17 IS/MND failed to analyze the cumulative impact of the Project given the County's approval in
18 June 2020 of one Special Permit and seven Zoning Clearance Certificates permitting 4.21 acres
19 of cannabis on another site in McCann, or anticipating the projected 2025 completion of a full-
20 height, full-service, year-round bridge intended to replace the existing low-water, seasonal
21 bridge. The IS/MND also failed to analyze the cumulative impact of the Project when
22 combined with past, present, and reasonably probable future Timber Harvesting Plans on and
23 near the Rolling Meadow Ranch property.

24 178. The IS/MND's analysis of the Project's incremental contribution to cumulative
25 impacts is also inadequate because, *inter alia*, the analysis in the IS/MND:

26 a. fails to adequately analyze the cumulative impacts to biological
27 resources caused by concentrating commercial cannabis facilities on "prime agricultural
28 soil," pursuant to the requirements of the CMMLUO;

1 b. fails to adequately analyze the cumulative impacts to water resources and
2 obligate aquatic and biological resources caused by permitting commercial cannabis
3 projects that will rely exclusively on groundwater for cultivation, without requiring
4 expert analysis of potential hydrologic connectivity to surface waters; and

5 c. fails to adequately analyze the cumulative impacts to public services
6 generally, and to wildfire response specifically, caused by permitting commercial
7 cannabis projects, which rely on electricity, often including generators, on remote,
8 difficult-to-access parcels without requiring adherence to access road standards
9 specified in the County's SRA Fire Safe Regulations.

10 179. As a consequence of the foregoing deficiencies, and as demonstrated in
11 extensive agency and public comments on the IS/MND, substantial evidence in the record
12 before the County demonstrates that the Project "may have a significant effect on the
13 environment."

14 180. The deficient IS/MND, even as revised, expands the fair argument that the
15 Project "may" cause a significant environmental impact because the potentially significant
16 impacts have not been properly analyzed and/or fully mitigated.

17 181. The failure to prepare an EIR precluded an analysis of alternatives to the Project.
18 Pursuant to CEQA, Respondents had a duty to identify a range of reasonable alternatives and to
19 describe these alternatives in sufficient detail to be of informational value to decision makers
20 and to the public. The discussion of alternatives is required to focus on those that were capable
21 of substantially reducing or eliminating any significant adverse environmental effects. Because
22 an EIR was not prepared, there was no analysis of alternatives that are capable of achieving the
23 Project's goals while substantially reducing the adverse environmental impacts.

24 182. The IS/MND therefore does not satisfy CEQA's requirements for an
25 informational document. Respondents failed to proceed in the manner required by law by
26 preparing an environmental document, the IS/MND, that does not fulfill CEQA's informational
27 purposes. The Project Approvals, specifically including Respondents' adoption of the
28 IS/MND, must be rescinded.

183. In each of the respects enumerated above, Respondents have violated their duties under CEQA, prejudicially abused their discretion, failed to proceed in a manner required by law, and have decided the matters complained of without the support of substantial evidence.

SECOND CAUSE OF ACTION

**Violations of CEQA – Inadequate Findings of Fact
(CCP § 1094.5, PRC § 21000, *et seq.*, CEQA Guidelines, 14 CCR § 15000, *et seq.*)
By Petitioner Against Respondents**

184. Petitioners incorporate by reference each and every allegation set forth above.

185. As a result of the foregoing deficiencies with the adopted IS/MND, the County's Findings of Fact with regard to project-specific and cumulative impacts are not supported by substantial evidence. Respondents failed to proceed in the manner required by law by adopting legally inadequate findings before approving the Project.

186. Respondents' Findings of Fact, as adopted in Board Resolution 21-26, violate the requirements of the CEQA Guidelines. Specifically, Respondent Board failed to find "on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the lead agency's independent judgment and analysis., as required by law." (CEQA Guidelines, § 15074(b).)

187. Respondents finding that the Project will not cause significant impacts within the categories of air quality, cultural resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise, population and housing, public services, recreation, transportation and traffic, tribal cultural resources, utilities, and wildfire and that no mitigation is required, is not supported by substantial evidence in light of the whole record, including comments received.

188. Respondents' finding that "[t]he MND mitigates the effects of the [P]roject to a point where no significant effect on the environment would occur and there is no substantial evidence in light of the whole record that the project, as revised, may have a significant effect

1 on the environment” is directly contradicted by substantial evidence in the record that the
2 Project may cause multiple potentially significant impacts.

3 189. Respondents’ finding that the Project’s potentially significant impacts to
4 aesthetics, agricultural and forest resources, and biological resources identified in the revised
5 IS/MND would be limited to less than significant levels through required mitigation measures
6 is also contradicted by substantial evidence in the record demonstrating that the Project, even as
7 mitigated, may cause potentially significant impacts in each of these areas.

8 190. Respondents’ finding that none of the public comments on the IS/MND
9 submitted by CDFW, environmental organizations, and the public change the conclusions
10 concerning the significance of environmental impacts is also contradicted by substantial
11 evidence in the record demonstrating that the Project, as mitigated, may cause multiple
12 potentially significant impacts.

13 191. All CEQA findings must be supported by substantial evidence in the record and
14 must disclose the analytical route by which approval of the Project is justified. The findings
15 regarding the impacts and mitigation measures relied upon by Respondents’ approval of the
16 Project are not supported by substantial evidence in the record, and the links between evidence
17 and conclusions are not satisfactorily provided.

18 192. Respondents’ Findings of Fact fail to reflect the independent judgment of
19 Respondents.

20 193. As a result of the foregoing defects, Respondents failed to proceed in a manner
21 required by law, and their decision to approve the Project was not supported by substantial
22 evidence.

23 **THIRD CAUSE OF ACTION**

24 **Violation of CEQA – Failure to Retain Administrative Record Documents** 25 **(CCP § 1094.5, PRC § 21168)** 26 **By Petitioner Against Respondents**

27 194. Petitioners incorporate by reference each and every allegation set forth above.

28 195. State and local law, including Public Resources Code section 21167.6(e) require
the County to retain all records necessary to form the complete administrative record of

1 proceedings in an action to challenge the County's approval of a project under CEQA.

2 196. Petitioners are informed and believe, and on the basis of such information and
3 belief allege that the County has deleted or destroyed records relating to the Project and/or
4 environmental review for the Project, which were required to be retained for inclusion in the
5 administrative record for this action.

6 197. Documents referenced in the revised IS/MND were not produced to Petitioners
7 in response to multiple requests for public records, even though these documents originated
8 prior to the date of Petitioners' requests.

9 198. Respondents prejudicially abused their discretion and failed to proceed in the
10 manner required by law by failing to preserve records necessary for lawful CEQA review.

11 **FOURTH CAUSE OF ACTION**

12 **Violations of the State Planning and Zoning Law** 13 **(Government Code, § 65000 *et seq.*)** 14 **By Petitioners Against Respondents**

15 199. Petitioners incorporate by reference each and every allegation set forth above.

16 200. All public agencies, including the County, have a mandatory duty to refuse to
17 approve any private development project that is inconsistent with the applicable General Plan,
18 the relevant property's zoning designation, and other applicable land use regulations.

19 201. The Project and its approval process are inconsistent with mandatory County
20 General Plan policies, including, *inter alia*, policies:

21 a. Requiring meaningful opportunities for public participation (Policy G-
22 P10);

23 b. Requiring coordination with local, state, and federal agencies with
24 respect to permitting processes and regulatory standards (Policy G-S3);

25 c. Requiring that "that land use decisions conserve, enhance, and manage
26 water resources on a sustainable basis to assure sufficient clean water for beneficial uses
27 and future generations" (Policy WR-P1);

28 d. Encouraging development "to compliment and not detract from the
function of rivers, streams, ponds, wetlands, and their setback areas" (Policy WR-P12);

1 e. Requiring consideration on other beneficial water uses be considered and
2 mitigated during discretionary review of land use permits (Policy WR-P2);

3 f. Discouraging high intensity development in Very High Fire Hazard
4 Severity Zones (Policy S-P1);

5 g. Requiring compliance with the County's SRA Fire Safe Regulations
6 (Policy S-P19 and Policy S-S9), and

7 202. The Project, as approved, is also inconsistent with Implementation Measure S-
8 IM5, which requires the County to process exceptions to mandatory requirements of the SRA
9 Fire Safe Regulations in coordination with CalFire.

10 203. The Project is also inconsistent with mandatory requirements of the County's
11 SRA Fire Safe Regulations and the CMMLUO.

12 204. Petitioners performed all the conditions precedent to filing this action by
13 submitting comments on the original and revised IS/MND and additional comments prior to
14 public hearings, in compliance with Government Code section 65009, subdivision (b). By
15 submitting written comments, Petitioners exhausted administrative remedies as required by
16 State and local planning and zoning law.

17 205. By approving a project inconsistent with the County's General Plan,
18 Respondents prejudicially abused their discretion and violated provisions of the State Planning
19 and Zoning Law, requiring invalidation of the County's approvals.

20 **FIFTH CAUSE OF ACTION**

21 **Declaratory Relief (CCP §§ 1060, 1085; PRC § 21168.5)**
22 **By Petitioners Against Respondents**

23 206. Petitioners incorporate by reference each and every allegation set forth above.

24 207. On information and belief, Petitioners allege that the violations of CEQA and
25 the State Planning and Zoning Law described above are not isolated occurrences but instead are
26 part of a pattern and practice. Respondents approved other commercial cannabis projects that:
27
28

1 a) Depend entirely upon groundwater with no scientific evaluation, such as
2 a hydrogeologist or other qualified expert study, and demonstration concerning whether
3 the project wells are hydrologically connected with surface waters;

4 b) Rely on access roads that do not comply with the mandatory minimum
5 requirements of the County's SRA Fire Safe Regulations; and

6 c) Utilize the "prime agricultural soil loophole" of the CMMLUO to locate
7 large commercial cannabis projects in remote wilderness areas atop sensitive and
8 biologically important grassland prairies.

9 208. Petitioners seek a judicial declaration concerning Respondents' obligations
10 under CEQA, the Planning and Zoning Law, and local land use regulations to (1) locate large-
11 scale commercial cannabis projects in bottomland areas suitable for agriculture as intended
12 under the CMMLUO and (2) to adequately evaluate the access roads and water supplies for
13 these projects.

14 209. Petitioners desire a judicial determination of the rights and obligations of the
15 respective parties concerning the allegations in this Verified Petition related to Respondents'
16 illegal pattern and practice. Such a declaration is necessary and appropriate at this time in
17 order that Petitioners may ascertain the right to require Respondents to act in accordance with
18 the requirements of CEQA and the State Planning and Zoning Law with respect to considering
19 the restrictions applicable to commercial cannabis projects.

20 210. There is a present and actual controversy between Petitioners and Respondents
21 as to the legality of the County's practice of disregarding impacts related to groundwater
22 withdrawal and emergency response access needs when considering commercial cannabis
23 proposals. This controversy is ongoing.

24 211. On information and belief, Petitioners further allege that Respondent County
25 continues to act in a manner contrary to its duties under the Public Trust Doctrine by continuing
26 to issue permits for wells used to extract groundwater potentially interconnected with the Eel
27 River and its non-navigable tributaries, without adequate analysis of the impacts to these
28

1 surface waters, its public trust uses and resources. Respondent County failed to uphold these
2 duties by neither monitoring nor regulating or limiting extractions of groundwater.

3 212. By the acts or omissions described above, Respondent County is allowing
4 destruction of the Eel River itself and the fish therein, which are public trust resources.
5 Specifically, the County is failing to protect the Eel River from numerous, injurious extractions
6 of potentially interconnected groundwater through their pattern and practice of issuing new
7 well drilling permits with no analysis of the impacts those potential groundwater extractions
8 could have on the Eel River. In turn, these groundwater extractions are causing injury to the
9 Eel River and the fish and wildlife therein.

10 213. Petitioners seek an order from the Court declaring that 1). the protection of
11 groundwater interconnected with the Eel River and its non-navigable tributaries falls within the
12 Respondents' authority under the Public Trust Doctrine and, 2) Respondents' pattern and
13 practice of issuing well permits for commercial cannabis projects within the Eel River
14 watershed without requiring applicants to demonstrate a lack of hydrologic connectivity to
15 surface waters violates the Public Trust Doctrine.

16 214. Petitioners request that no new permits to drill additional wells should be issued
17 by Respondent County for any applications for sites within the Eel River watershed sub-basins
18 until the interconnected zones for proposed wells have been determined and the County has put
19 in place a permit or management plan for such wells that will proactively and affirmatively
20 protect the public trust resources of the Eel River sub-basin.

21 215. Petitioners have no adequate remedy at law because monetary damages cannot
22 be ascertained and Petitioners cannot be compensated for the unmitigated impacts and lack of
23 public disclosure and accountability caused by the Respondents' pattern and practice. In
24 addition, it is impracticable and a waste of judicial resources for Petitioners to challenge each
25 commercial cannabis project that is subject to the General Plan and regulatory restrictions.

26 216. Petitioners are informed and believe, and allege thereon, that Respondents
27 dispute each and every one of the allegations and declarations set forth in paragraphs 210
28 through 218, above, and that an actual controversy exists as to each and every allegation and

1 declaration therein. A judicial resolution of this controversy is therefore necessary and
2 appropriate.

3 WHEREFORE, Petitioners pray for judgment as follows:

4 **PRAYER FOR RELIEF**

5 1. Alternative and peremptory writs of mandate directing Respondents to vacate
6 and set aside the Project Approvals on the grounds that those approvals violated CEQA, the
7 State Planning and Zoning Law, and applicable land use regulations;

8 2. For alternative and peremptory writs of mandate directing Respondents to
9 comply with CEQA and the CEQA Guidelines with respect to the Project and take any other
10 action as required by Public Resources Code section 21168.9;

11 3. For alternative and peremptory writs or preliminary and permanent injunctions
12 compelling Respondent County to cease the issuance of well drilling permits for groundwater
13 within the Eel River sub-basin and require seasonal forbearance from groundwater pumping
14 until such time as they are not violating their public trust duties;

15 4. For a temporary stay, temporary restraining order, and preliminary and
16 permanent injunctions restraining Respondents or Real Parties in Interest and their agents,
17 servants, and employees, and all others acting in concert with them or on their behalf, from
18 taking any action to implement, fund, or construct any portion or aspect of the Project, pending
19 full compliance with the requirements of CEQA, the CEQA Guidelines, and the State Planning
20 and Zoning Law;

21 5. An order requiring Respondents to rescind their approval of the Project and all
22 actions related thereto or in the alternative an order invalidating each of the unlawful Project
23 Approvals, and/or actions made by one or more of the Respondents, as provided by Code of
24 Civil Procedure section 860 *et seq.*;

25 6. For an order from the Court declaring that Respondents' actions in certifying the
26 IS/MND and approving the Project violated CEQA, the CEQA Guidelines, and the State
27 Planning and Zoning Law, and that the certification and approvals are invalid and of no force
28

1 or effect, and that the Project is inconsistent with other applicable plans, policies, or
2 regulations;

3 7. For an order from the Court declaring that Respondents' actions concerning this
4 Project are part of a pattern and practice of approving commercial cannabis projects without
5 ensuring full compliance with CEQA, the CEQA Guidelines, and the State Planning and
6 Zoning Law;

7 8. For an order from the Court declaring that groundwater which is hydrologically
8 connected to navigable surface flows, protected by the Public Trust Doctrine, must be managed
9 and protected in a manner consistent with the Public Trust Doctrine;

10 9. For an award of Petitioners' attorneys' fees under Code of Civil Procedure
11 section 1021.5, Government Code section 800, and other applicable authority;

12 10. For an award of Petitioners' costs of suit incurred in this proceeding under Code
13 of Civil Procedure section 1032, and other applicable authority; and

14 11. Such other and further relief as the Court deems just and proper.
15

16 Dated: April 8, 2021

HOLDER LAW GROUP

17 By 
18 Jason W. Holder

19 Dated: April 8, 2021

JANSSEN MALLOY, LLP

20 By 
21 David S. Nims

22 Counsel for Petitioners NORTHCOAST
23 ENVIRONMENTAL CENTER, CITIZENS FOR A
24 SUSTAINABLE HUMBOLDT and MARY
25 GATERUD
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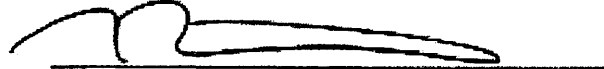
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VERIFICATION

I am a member of the board of directors for Citizens for A Sustainable Humboldt ("CSH"). I am authorized to make this verification for and on behalf of the CSH, and I make this verification for that reason. I have read the foregoing Verified Petition for Peremptory Writ of Mandate; Complaint for Injunctive and Declaratory Relief. I am informed and believe and, based on such information and belief, allege that the matters stated in it are true and correct.

Executed at McCann, California on this 7th day of April 2021.

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



Mary Gaterud, Director
Citizens for A Sustainable Humboldt

Exhibit A

Letter Providing County with Prior Notice of CEQA Lawsuit,
per PRC § 21167.5



Holder Law Group

317 Washington Street, #177
Oakland, CA 94607

holderecolaw.com

(510) 338-3759
jason@holderecolaw.com

April 6, 2021

VIA U.S. MAIL AND EMAIL

Kathy Hayes, Clerk of the Board of
Supervisors
County of Humboldt
825 Fifth Street, Room 111
Eureka, Ca 95501
Email: KHayes@co.humboldt.ca.us

Jefferson Billingsley, County Counsel
County of Humboldt
825 5th St.
Room 110
Eureka, CA 95501
Email: Countycounsel@co.humboldt.ca.us

**RE: Notice of Intent to File Suit Under the California Environmental Quality Act:
Rolling Meadow Ranch Project (SCH# 2020070339)**

Dear Ms. Hayes and Mr. Billingsley:

On behalf of Northcoast Environmental Center, Citizens for a Sustainable Humboldt, and Mary Gaterud (collectively, "Petitioners"), we submit this notice letter concerning the Rolling Meadow Ranch LLC Project ("Project"). The Project includes adoption of an Initial Study / Mitigated Negative Declaration ("IS/MND") and approval of six Conditional Use Permits ("CUPs").

Please take notice, pursuant to Public Resources Code ("PRC") § 21167.5, that Petitioners intend to file a Verified Petition for Peremptory Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition"), under the provisions of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000, *et seq.* and the State Planning and Zoning Law (Gov. Code, § 65000, *et seq.*), against Respondents and Defendants County of Humboldt ("County") and the Board of Supervisors for the County (collectively, "Respondents") in the Superior Court for the County of Humboldt. The Petition will challenge the unlawful Project approval actions taken by Respondents on March 9, 2021, in adopting Resolution 21-26, adopting the IS/MND, making findings of fact, and adopting a mandatory mitigation monitoring and reporting program (collectively, "Project Approvals").

The claims Petitioners intend to raise in the litigation include, but are not limited to, the following:

1. The IS/MND does not satisfy CEQA's requirements because there is a fair argument that the Project may cause potentially significant impacts to the environment.

2. The IS/MND did not adequately analyze, disclose, and mitigate the Project's direct, indirect, and cumulative impacts.
3. The County Board of Supervisor's findings concerning the Project are not supported by substantial evidence.
4. The Project is inconsistent with mandatory provisions of the County General Plan and local land use regulations.
5. The Project approvals are part of an unlawful pattern and practice of approving large-scale commercial cannabis project without requiring, *inter alia*: (1) sufficient analysis of project wells' hydrologic connectivity to surface waters and (2) adherence to mandatory minimum requirements for project access roads under the County's SRA Fire Safe Regulations.

The Petition will seek the following relief:

1. A stay of Respondents' decisions adopting the IS/MND and approving the Project pending trial;
2. A peremptory writ of mandate, temporary and permanent injunctions, and declaratory relief directing Respondents to:
 - a. Vacate and set aside Resolution 21-26 adopting the IS/MND and Mitigation Monitoring and Reporting Program for the Project, making CEQA findings, and approving the Project,
 - b. Suspend all Project activity that could result in any change or alteration to the physical environment until Respondents have taken actions that may be necessary to bring the Project Approvals into compliance with CEQA, and
 - c. Prepare, circulate, and consider a new and legally adequate EIR and otherwise to comply with CEQA in any subsequent action taken to approve the Project;
3. For the costs of suit;
4. For an award of attorney fees pursuant to Code of Civil Procedure § 1021.5 and any other applicable provisions of law or equity; and
5. For any other equitable or legal relief that the Court considers just and proper.

Petitioners urge the County to (1) rescind its Notice of Determination for the Project, as well as the existing Project Approvals, and (2) prepare an EIR for this Project as required by law.

Petitioners currently intend to file the CEQA lawsuit no later than Thursday, April 8, 2021. However, the actual deadline for filing the CEQA lawsuit is Friday, April 9, 2021, based on the date the NOD was recorded and posted.

Please contact me if you have any questions or concerns regarding this.

Very truly yours,

A handwritten signature in black ink, appearing to be 'JW Holder', with a long horizontal stroke extending to the right.

Jason W. Holder
Holder Law Group
Attorneys for Northcoast Environmental
Center, Citizens for a Sustainable Humboldt,
and Mary Gaterud

cc: (via email only)
David Nims, Janssen Mallow, LLP, co-counsel
Client contacts

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PROOF OF SERVICE

I am a citizen of the United States and a resident of the County of Humboldt, over the age of eighteen years and not a party to or interested in the within entitled cause. My business address is 730 Fifth Street, Eureka, California, 95501.

On April 6, 2021, I served the following documents:

**Notice of Intent to File Suit Under the California Environmental Quality Act:
Rolling Meadow Ranch Project (SCH# 2020070339)**

[X] [BY MAIL] By placing a true copy thereof enclosed in a sealed envelope, addressed as shown below and placing the envelope for collection and mailing on the date and at the place shown below, following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

[X] [BY ELECTRONIC MAIL] On April 6, 2021, I electronically served the above document: to the persons indicated below: The above document was transmitted through the regular course of business and the transmission was reported as complete and without error.

Kathy Hayes
Clerk of the Board of Supervisors
Country of Humboldt
825 Fifth Street, Room 111
Eureka, CA 95501
Email:KHayes@co.humboldt.ca.us

Jefferson Billingsley
County Counsel
County of Humboldt
825 Fifth Street, Room 110
Eureka, CA 95501
Email: Countycounsel@co.humboldt.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 6, 2021 at Eureka, California.

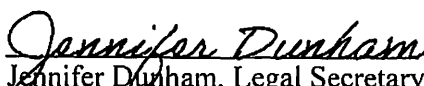

Jennifer Dunham, Legal Secretary

Exhibit B

Notice of Petitioners' Election to Prepare the Administrative Record,
per PRC § 21167.6(b)(2)

1 HOLDER LAW GROUP
Jason W. Holder (State Bar No. 232402)
2 317 Washington St., #177
Oakland, CA 94607-3710
3 Tel.: (510) 338-3759
4 Email: jason@holderecolaw.com

5 JANSSEN MALLOY LLP
David S. Nims (State Bar No. 280452)
6 730 Fifth Street
Eureka, CA 95501
7 Tel.: (707) 445-2071
8 Fax: (707) 445-8305
Email: dsnims@janssenlaw.com

9 Attorneys for Petitioners and Plaintiffs
10 NORTHCOAST ENVIRONMENTAL CENTER,
11 CITIZENS FOR A SUSTAINABLE HUMBOLDT,
and MARY GATERUD

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF HUMBOLDT**

15 NORTHCOAST ENVIRONMENTAL)	CASE NO.:	FAX FILE
CENTER, a non-profit organization;)		
16 CITIZENS FOR A SUSTAINABLE)	NOTICE OF PETITIONERS' ELECTION	
HUMBOLDT, a public benefit corporation;)	TO PREPARE THE ADMINISTRATIVE	
17 and MARY GATERUD,)	RECORD OF DECISION	
)		
18 Petitioners and Plaintiffs,)		
19 v.)	[Public Resources Code, § 21167.6(e)]	
)		
20 COUNTY OF HUMBOLDT, a political)		
subdivision of the State of California;)		
21 HUMBOLDT COUNTY BOARD OF)		
SUPERVISORS, and DOES 1 to 10, inclusive,)		
22)		
)		
23 Respondents and Defendants.)		
)		
24 ROLLING MEADOW RANCH, LLC, a)		
Florida limited liability corporation; ROLLING)		
25 MEADOW RANCH, INC., a Florida)		
Corporation, and DOES 11 to 20,)		
26)		
)		
27 Real Parties in Interest.)		
28			

1 **TO RESPONDENTS, DEFENDANTS AND REAL PARTIES IN INTEREST:**

2 **NOTICE IS HEREBY GIVEN**, pursuant to section 21167.6, subdivision (b)(2), of the
3 California Public Resources Code, Petitioners and Plaintiffs NORTHCOAST
4 ENVIRONMENTAL CENTER, CITIZENS FOR A SUSTAINABLE HUMBOLDT, and
5 MARY GATERUD ("Petitioners") hereby provide notice of their election to prepare the
6 administrative record pertinent to this proceeding.

7 Dated: April 8, 2021

HOLDER LAW GROUP

8
9 By 

Jason W. Holder

10 Attorneys for Petitioner and Plaintiff
11 Petitioners and Plaintiffs NORTHCOAST
12 ENVIRONMENTAL CENTER, CITIZENS FOR A
13 SUSTAINABLE HUMBOLDT, MARY GATERUD
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