

# **ATTACHMENT G**

SUMMONS RECEIVED  
(CITACION JUDICIAL) MONTEREY COUNTY

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)  
**FILED**  
JAN 10 2011  
CONNIE MAZZEI  
CLERK OF THE SUPERIOR COURT  
DEPUTY  
M. OLIVEREZ

NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):  
2011 JAN 11 PM 1:26  
COUNTY OF MONTEREY and DOES 1 THROUGH 99 INCLUSIVE  
CLERK OF THE BOARD

YOU ARE BEING SUED BY PLAINTIFF: SALINAS VALLEY WATER  
(LO ESTÁ DEMANDANDO EL DEMANDANTE): COALITION; MONTEREY  
COUNTY FARM BUREAU; MONTEREY/SANTA CRUZ COUNTIES BUILDING  
AND CONSTRUCTION TRADES COUNCIL; MONTEREY PENINSULA TAXPAYERS  
ASSOCIATION; HOWARD JARVIS TAXPAYERS ASSOCIATION

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)); the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

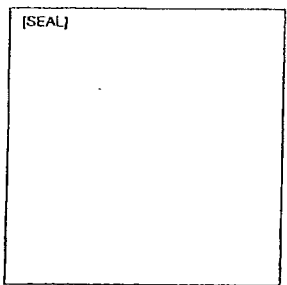
The name and address of the court is:  
(El nombre y dirección de la corte es): Monterey Superior Court  
1200 Aguajito Road  
Monterey, California 93940

CASE NUMBER:  
(Número del Caso):  
M109451

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Pamela H. Silkwood, Esq. Horan; Lloyd Law Offices, 499 Van Buren St., Monterey CA 93940 (831)373-4131

DATE: JAN 10 2011  
(Fecha) Clerk, by CONNIE MAZZEI, Deputy M. OLIVEREZ (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



- NOTICE TO THE PERSON SERVED: You are served
- 1.  as an individual defendant.
  - 2.  as the person sued under the fictitious name of (specify):
  - 3.  on behalf of (specify): County of Monterey  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify): public entity
  - 4.  by personal delivery on (date):

**FILED**

**JAN 10 2011**

CONNIE MAZZEI  
CLERK OF THE SUPERIOR COURT  
M. OLIVEREZ DEPUTY

1 Timothy J. Morgan, Esq. SBH 57847  
121 Jewell Street  
2 Santa Cruz, CA 95050  
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4 Mark A. Blum, Esq. SBN 124316  
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8 Monterey, CA 93942-335  
(831) 373-4131  
9 Attorneys for Petitioners and Plaintiffs

10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF MONTEREY

13 SALINAS VALLEY WATER COALITION;  
14 MONTEREY COUNTY FARM BUREAU;  
15 MONTEREY/SANTA CRUZ COUNTIES  
16 BUILDING AND CONSTRUCTION  
17 TRADES COUNCIL; MONTEREY  
18 PENINSULA TAXPAYERS  
ASSOCIATION; HOWARD JARVIS  
TAXPAYERS ASSOCIATION

19 Petitioners and Plaintiffs,

20 v.

21 COUNTY OF MONTEREY; and  
22 DOES 1 THROUGH 99, INCLUSIVE,

23 Respondents and Defendants  
24 /

Case No. M109451

**AMENDED  
COMPLAINT FOR ANTICIPATORY  
BREACH OF CONTRACT (DAMAGES),  
BREACH OF CONTRACT (ESTOPPEL);  
AMENDED PETITION FOR WRIT OF  
MANDAMUS, DECLARATORY RELIEF  
AND INJUNCTIVE RELIEF; AMENDED  
COMPLAINT FOR CONSTITUTIONAL  
VIOLATIONS AND INVERSE  
CONDEMNATION**

26 Petitioners and Plaintiffs SALINAS VALLEY WATER COALITION, MONTEREY COUNTY  
27 FARM BUREAU, MONTEREY/SANTA CRUZ COUNTIES BUILDING AND  
CONSTRUCTION TRADES COUNCIL, MONTEREY PENINSULA TAXPAYERS  
28 ASSOCIATION, HOWARD JARVIS TAXPAYERS ASSOCIATION (hereinafter collectively  
"Plaintiffs" or singularly "Plaintiff") allege as follows:

1 I.

2 INTRODUCTION

3 1. Plaintiffs seek a Writ of Mandate to set aside, void and annul Defendant and  
4 Respondent COUNTY OF MONTEREY's (hereinafter "Defendant COUNTY OF  
5 MONTEREY" or "County") October 26, 2010 decision to adopt the 2010 update of the  
6 Monterey County General Plan, otherwise referred to as GPU5, the 2007 General Plan Update  
7 and the 2010 General Plan Update (hereinafter collectively referred to as "General Plan") and to  
8 certify the Environmental Impact Report for the General Plan (hereinafter "EIR"). The Petition  
9 and Complaint are brought on the grounds that:

10 a. The EIR does not substantially comply with the requirements of the  
11 California Environmental Quality Act (hereinafter "CEQA"; California Public  
12 Resources Code §§ 21000, *et seq.*), Title 14, California Code of Regulations,  
13 section 15000, *et seq.* (hereinafter "CEQA Guidelines") including the State and  
14 Federal constitutional limitations explicitly set forth in the CEQA Guidelines, and  
15 other provisions of the law. (California Public Resources Code §§21168,  
16 21168.5.) Defendant COUNTY OF MONTEREY's action in certifying the EIR  
17 and adopting the General Plan is flawed, inadequate, incomplete, and constitutes a  
18 prejudicial abuse of discretion in that Defendant COUNTY OF MONTEREY  
19 failed to proceed in the manner required by law and Defendant COUNTY OF  
20 MONTEREY's decision is not supported by substantial evidence.

21 b. Defendant COUNTY OF MONTEREY violated Plaintiffs' due process  
22 rights set forth in the U.S. Constitutional Amendment §14 and California  
23 Constitution Article 1, § 7 by adopting mitigation measures that do not bear a  
24 reasonable relationship, nexus or rough proportionality with the identified  
25 impacts. (*Nollan v. California Coastal Comm'n* (1987) 483 US 825.) Moreover,  
26 Defendant COUNTY OF MONTEREY adopted an unconstitutionally overly  
27 broad and indefinite definition of the term, "Long Term Sustainable Water

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Supply”, which definition was then invalidly applied to mitigation measures, creating legally infeasible mitigation measures that grants Defendant COUNTY OF MONTEREY unfettered discretion, without appropriate safeguards, which will result in arbitrary and discriminatory enforcement. Through these infeasible, unconstitutional mitigation measures, Defendant COUNTY OF MONTEREY overstepped its authority by creating an ad-hoc, legislative scheme for the adjudication of Monterey County’s groundwater basins in violation of Water Code sections 2000 *et. seq.* and 2500 *et seq.*

c. Through these constitutional violations, Defendant COUNTY OF MONTEREY has interfered with Plaintiffs’ investment-backed expectations, causing severe damage. Defendant COUNTY OF MONTEREY has denied Plaintiffs the right to make economically viable, productive, or beneficial use of their properties, and have thus taken Plaintiffs’ property without compensation.

d. Defendant COUNTY OF MONTEREY has caused an anticipatory breach of the contract formed between the property owners/property tax payers in certain areas of Monterey County by adopting policy measures which will prohibit certain development, including but not limited to wells, lot line adjustments, and “granny units,” absent proof of a sustainable, long-term source of water for such development, within a special assessment district, which district was formed pursuant to a vote held under the provisions of Proposition 218 in 2003, with the express purpose of providing adequate water supplies and flexibility to meet current and future needs through the year 2030. Defendant COUNTY OF MONTEREY has repudiated its obligations under the contract.

e. Defendant COUNTY OF MONTEREY violated Plaintiffs’ rights to the equal protection of the law under the 14th Amendment to the United States Constitution and the California Constitution, Article 1, § 7 and 42 U.S.C. section 1983 insofar as Defendant COUNTY OF MONTEREY has adopted a policy

1 which discriminates in the imposition of requirements for development projects  
2 where the sole distinction that determines whether the requirements are imposed  
3 is the nature of what industry within which the development is associated. Under  
4 the recently adopted policy, "development related to agricultural land uses within  
5 Zone 2C" are exempted "provided the county prepares a report every five years."  
6 (2010 General Plan Update Policy PS-3.1.) Development related to non-  
7 agricultural land uses is subject to the new requirements, with the exception of  
8 certain uses such as the first single family dwelling and non-habitable accessory  
9 uses, and also certain other development within Zone 2C "for which the decision  
10 maker makes" certain findings. No other distinction is drawn between  
11 development not subject to the new rules and development that is subject to the  
12 new rules. In essence, certain classes of uses are being discriminated against,  
13 even though all of the land uses within Zone 2C pay the same weighted  
14 assessment based on location in the zone with the same expectation of adequate  
15 water supply to year 2030. The distinction lacks any rational basis recognized  
16 under the United States or California Constitutions. Moreover, the distinction is  
17 irrational in view of the subject of the underlying policy, which is water use and  
18 supply.

19 II.  
20 PARTIES

21 2. Plaintiffs hereby incorporate by reference paragraph 1 as if fully set forth herein.  
22 Plaintiffs MONTEREY COUNTY FARM BUREAU, SALINAS VALLEY WATER  
23 COALITION, HOWARD JARVIS TAXPAYERS ASSOCIATION, MONTEREY PENINSULA  
24 TAXPAYERS ASSOCIATION, and MONTEREY/SANTA CRUZ COUNTIES BUILDING  
25 AND TRADES COUNCIL are non-profit corporations, organized under the laws of, and  
26 qualified and doing business in, the State of California, and the County of Monterey. Plaintiffs  
27 contain among their members individuals and companies who are property owners within Zone

1 2C, who are subject to and have been paying the assessments required under the Proposition 218  
2 measure approved in 2003, which levied assessments on land owners to assure adequate water  
3 supply in Zone 2C to 2030. Plaintiffs HOWARD JARVIS TAXPAYERS ASSOCIATION and  
4 MONTEREY PENINSULA TAXPAYERS ASSOCIATION are organized and existing for the  
5 purpose, among others, of advancing the interests of taxpayers. Plaintiffs SALINAS VALLEY  
6 WATER COALITION; MONTEREY COUNTY FARM BUREAU; and MONTEREY/SANTA  
7 CRUZ COUNTIES BUILDING AND CONSTRUCTION TRADES COUNCIL are organized  
8 and existing for the purpose, among others, of protecting and advancing property rights.

9 3. Defendant COUNTY OF MONTEREY COUNTY is a public entity organized  
10 and existing under the laws of State of California.

11 4. Plaintiffs are ignorant of the true names and capacities of Defendants sued herein  
12 as DOES 1 through 99, inclusive, and therefore sue these Defendants by such fictitious names.  
13 Plaintiffs will amend this complaint to allege their true names and capacities when ascertained.  
14 Plaintiffs are informed and believe and thereon allege that each of said fictitiously named  
15 Defendant is in some manner responsible for the injury and damage to Plaintiffs alleged herein.

16 5. Plaintiffs are informed and believe and thereon allege that all times herein  
17 mentioned, Defendants herein were the agents, servants, and employees of their Co-Defendant  
18 COUNTY OF MONTEREY, and in doing the things hereinafter mentioned were acting within  
19 the course and scope of their authority as such agents, servants and employees, with the  
20 permission and consent of their Co-Defendant COUNTY OF MONTEREY.

21 **III.**

22 **BACKGROUND FACTS**

23 6. Plaintiffs hereby incorporate by reference paragraphs 1 through 5 as if fully set  
24 forth herein.

25 7. Monterey County is a duly created political subdivision of the State of California,  
26 with ultimate executive and legislative authority invested in an elected five-member Board of  
27 Supervisors.

1           8.       The Salinas Valley is a geographic region of the northern part of Monterey  
2 County running generally north-south and underlain by aquifers which supply water for  
3 domestic, agricultural and industrial uses. Additional water is supplied to the valley from the  
4 Salinas River and stored in two regional reservoirs. The Salinas River meanders through the  
5 Salinas Valley floor, an area of about 1,000 square miles. Adequate water supply has been a  
6 major concern in the Salinas Valley for over fifty years due to overdrafts of the underlying  
7 aquifer and resultant intrusion of saltwater from the adjacent Pacific Ocean. Exhibit "A",  
8 attached hereto and incorporated by reference herein, includes a map of the Salinas River  
9 Watershed and the Salinas River.

10           9.       The Monterey County Water Resources Agency (hereinafter the "MCWRA") was  
11 created pursuant to the *Monterey County Water Resources Agency Act*, 1990 Stats. 1159, 1991  
12 Stats. 1130, 1993 Stats. 234, and 1994 Stats. 803. The MCWRA is governed by a Board of  
13 Supervisors which is coextensive with the Board of Supervisors of Monterey County, and which  
14 Monterey County Board of Supervisors has ultimate executive and legislative authority over the  
15 MCWRA, making the MCWRA an integral part of Monterey County Government. The  
16 MCWRA is, to all intents and purposes, an alter ego of Defendant COUNTY OF MONTEREY  
17 insofar as their ultimate control is invested in the same Board of Supervisors, the enabling  
18 legislation for the MCWRA effectively defines all employees of the County as employees of the  
19 MCWRA, with no additional compensation (with the exception of a single County employee: the  
20 County Surveyor), etc. MCWRA is a public entity under the essential control of Defendant  
21 COUNTY OF MONTEREY. Indeed, in the case of *Arreola v. County of Monterey* (2002) 99  
22 Cal.App.4th 722, 122 Cal.Rptr.2d 38, the Court determined that the County of Monterey  
23 exercised essential control over the MCWRA, and accordingly Defendant COUNTY OF  
24 MONTEREY is collaterally estopped from asserting the that the MCWRA is anything but a  
25 constituent part of the government of the County of Monterey.

26           10.       Over the years, various efforts at improving water distribution, efficiency, etc.,  
27 have been made by government entities, agricultural interests, industry, etc. An important part of



1 these efforts included the construction of a pipeline system for delivery of water for irrigation to  
2 the agricultural fields in the northern part of the Salinas Valley, to be served by pumping from  
3 the Salinas River.

4 11. In a process covering many years, involving many governmental and private  
5 organizations and citizens, a plan was developed to increase seasonal water storage and  
6 groundwater aquifer recharge which plan included the construction of a "rubber dam" on the  
7 Salinas River to increase seasonal water storage and provide a supply of water to be diverted into  
8 the pre-existing pipeline system. Additionally, improvements would be made to one of the  
9 reservoirs in the system. The principal goals of these efforts were to secure a stable supply of  
10 water for all water users in the Valley, halt and reverse salt water intrusion into the aquifer, and  
11 provide flood control measures. And extensive environmental impact and engineering reports  
12 were prepared and duly adopted during this process. Such reports are now settled and not  
13 subject to further debate or modification.

14 12. One of the projects developed through this process is known as the Salinas Valley  
15 Water Project (hereinafter the "SVWP"). The project development process culminated in a vote  
16 taken on January 14, 2003, wherein the Board of Supervisors of Defendant COUNTY OF  
17 MONTEREY, authorized, by unanimous vote in favor of Board Resolution No. 03-017, an  
18 Assessment Ballot Proceeding pursuant to California Proposition 218 (California Constitution  
19 Article 13D) to obtain landowner approval of the Salinas Valley Water Project Assessment  
20 (hereinafter the "Proposition 218 measure"), to fund the SVWP.

21 13. Defendant COUNTY OF MONTEREY actively supported the campaign in favor  
22 of the Proposition 218 measure by preparing and supplying information to private parties who  
23 disseminated such information and advocated on behalf of the measure. Additionally, Defendant  
24 COUNTY OF MONTEREY/MCWRA held at least seven informational meetings around the  
25 County as well as public hearings on the matter. Defendant COUNTY OF  
26 MONTEREY/MCWRA prepared and mailed two informational mailers, essentially supporting  
27 passage of the measure.

1           14.     On April 8, 2003, the election for the Proposition 218 measure was held,  
2 resulting in an affirmative vote in favor of the measure.

3           15.     Following the election, Defendant COUNTY OF MONTEREY, by action of its  
4 Board of Supervisors, enacted Ordinance No. 04203, which authorized the issuance of bonds to  
5 finance the construction, the collection of the assessments, and the designation of a portion of the  
6 Salinas Valley as "Zone 2C" in which zone property owners benefitted from the SVWP and paid  
7 special assessments for the SVWP. (See map of Zone 2-C as Exhibit "B", attached hereto and  
8 incorporated by reference herein.) The bonds were issued by an agency called the Monterey  
9 County Financing Authority, which is another alter-ego of Defendant COUNTY OF  
10 MONTEREY and over which the Monterey County Board of Supervisors exercise complete  
11 control by acting as the Financing Authority's Board of Supervisors.

12           16.     The physical infrastructure improvements, which were authorized as part of the  
13 SVWP, have been built, and bonds to finance the project have been issued by Defendant  
14 COUNTY OF MONTEREY through the Monterey County Financing Authority.

15           17.     Plaintiffs are informed and believe and thereon allege that Defendant COUNTY  
16 OF MONTEREY has been collecting the approved assessments from property owners within the  
17 special assessment zone created by the Proposition 218.

18           18.     In 2007, Defendant COUNTY OF MONTEREY began drafting the present  
19 General Plan to update the 1982 General Plan. The General Plan covers 1,878,748 acres of land  
20 located within inland areas of the unincorporated Monterey County, which is divided further into  
21 the following eight (8) inland areas in the General Plan: North County, Greater Salinas, Central  
22 Salinas, Greater Monterey Peninsula, Toro, Cachagua, South County, and Lands within the Los  
23 Padres National Forest. The General Plan required certification of a valid environmental impact  
24 report prepared in accordance with CEQA, applicable County codes and regulations, State and  
25 Federal laws, and State administrative guidelines and rulings.

26           19.     Accordingly, Defendant COUNTY OF MONTEREY prepared Draft and Final  
27 Environmental Impact Reports for the General Plan (hereinafter collectively, "EIR" or

1 individually, "Draft EIR" or "Final EIR") and held hearings on the General Plan and EIR. On or  
2 around October 15, 2010, about eleven (11) days prior to the certification of the EIR, Defendant  
3 COUNTY OF MONTEREY released to the public 148 pages of Supplemental Materials to the  
4 Final EIR. On or around October 26, 2010, the Board of Supervisors of Defendant COUNTY OF  
5 MONTEREY certified the EIR pursuant to CEQA (California Public Resources Code section  
6 21000, *et seq.*) through County Resolution No. 10-290, which included three exhibits relating to  
7 the EIR: Exhibit EIR1, CEQA Findings of Fact; Exhibit EIR2, Statement of Overriding  
8 Considerations; and Exhibit EIR3, Mitigation Monitoring Reporting Program. The EIR,  
9 Supplemental Materials to the Final EIR and the County Resolution with its exhibits are  
10 sometimes hereinafter collectively referred to as "EIR Documents."

11 20. Following the certification of the EIR, the Defendant COUNTY OF MONTEREY  
12 Board of Supervisors adopted the General Plan through County Resolution No. 10-291, which  
13 included Exhibit GP1, Government Code Compliance.

14 21. The EIR Documents describe the water supply available for Monterey County.  
15 Monterey County derives a majority of its total water supply from groundwater storage. The  
16 major groundwater basins in Monterey County are: (1) Salinas Valley (hereinafter referred to as  
17 "Salinas Valley Groundwater Basin"); (2) Monterey Peninsula; and (3) Carmel Valley. All of  
18 the water used in the Salinas Valley Groundwater Basin (for irrigation domestic, municipal, and  
19 industrial purposes) is supplied from groundwater (with the exception of an area near Greenfield,  
20 which uses a surface diversion from the Arroyo Seco River). As described in Paragraphs 12  
21 through 16, the SVWP is an approved project of the MCWRA.

22 22. ~~The primary objective of the SVWP is to halt further groundwater degradation~~  
23 ~~and seawater intrusion by bringing aquifer pumping and recharge rates into balance and~~  
24 ~~providing adequate water supplies and flexibility to meet current and future needs to year 2030.~~

25 23. In certifying the EIR, Defendant COUNTY OF MONTEREY concluded that the  
26 level of significance of water supply impact varies between the three groundwater basins:

1 Salinas River, Monterey Peninsula, and Pajaro River. Thus, multiple findings were made for the  
2 water supply impacts.

3 24. Specific to the Salinas Valley Groundwater Basin, the EIR Documents conclude  
4 that the effect of the SVWP (halting further overdraft compared to baseline conditions) will,  
5 together with Mitigation Measure WR-2, mitigate groundwater impacts to less than significant  
6 levels, both for the life of the General Plan (i.e., year 2030) and at full build-out of the General  
7 Plan (i.e., year 2092) (with the exception of Impact WR-7 for 2092). Mitigation Measure WR-2  
8 requires Defendant COUNTY OF MONTEREY to pursue the expansion of the SVWP.

9 25. The EIR also considered potential secondary impacts of implementing Mitigation  
10 Measure WR-2. In analyzing these secondary impacts, the EIR states and in certifying the EIR,  
11 the County Board of Supervisor finds that there are currently no designs for any future storage,  
12 treatment, and conveyance facilities to meet all future water supply needs and concluded that is  
13 not technically feasible to analyze the secondary impacts of undefined future water facilities.  
14 For Impact WR-7, the EIR determined the impact to be uncertain.

15 26. Nevertheless, the EIR Documents conclude that even though these impacts are not  
16 known and not capable of further analysis at this time, the impacts are considered significant and  
17 unavoidable.

18 27. Although the EIR Documents correctly recognize that, if an agency finds that an  
19 impact is too speculative for evaluation, it should terminate the discussion of the impact (CEQA  
20 Guidelines section 15145), they do not consistently adhere to this guidance. The EIR Documents  
21 properly terminated the discussion of the proposed 2007 Local Coastal Program (hereinafter  
22 "LCP") amendment to incorporate the Castroville Community Plan into the LCP on the  
23 following grounds, "[T]he proposed 2007 amendment to incorporate the Castroville Community  
24 Plan into the LCP is not a known or foreseeable consequence of the adoption of GPU5, and the  
25 DEIR was not required by CEQA to analyze it." The same principle was not, however, applied  
26 to terminate the speculative analyses of secondary impacts of future water facilities and to find  
27 that there were no potentially significant impacts associated therewith.

1           28.     The EIR Documents similarly recognize the constitutional limitations upon  
2 CEQA mitigation, which are described, *inter alia*, in CEQA Guidelines section  
3 15126.4(a)(4)(A)-(B). Federal and State constitutional principles require an essential nexus (i.e.  
4 connection) between the mitigation measure and a legitimate governmental interest pursuant to  
5 *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987). Defendant COUNTY OF  
6 MONTEREY's adherence to these principles is inconsistent. Defendant COUNTY OF  
7 MONTEREY found, for example, that because the cumulative loss of natural lands over the  
8 course of the next 82 years is unknown and speculative, mitigation was infeasible. Consequently,  
9 Defendant COUNTY OF MONTEREY did not impose mitigation which would have lacked an  
10 essential constitutional nexus. In contrast, the Defendant COUNTY OF MONTEREY adopted  
11 policies to mitigate the secondary impacts of undefined future water facilities which Defendant  
12 COUNTY OF MONTEREY determined to be speculative.

13           29.     Various mitigation measures such as Mitigation Measure Policies PS-3.1 and PS-  
14 3.2 adopted by Defendant COUNTY OF MONTEREY incorporate the term, "Long Term  
15 Sustainable Water Supply". Long Term Sustainable Water Supply is defined in the EIR  
16 Documents as the use of groundwater in a manner that can be maintained for an indefinite time.

17           30.     These Mitigation Measures also prohibit (with certain exceptions) new  
18 development without proof, based on specific findings and supported by evidence, that there is a  
19 Long Term, Sustainable Water Supply (i.e., for an indefinite time) to serve the development.

20           31.     The General Plan incorporates policies based upon other EIR mitigation measures  
21 that apply County-wide, including application to the Salinas Valley Groundwater Basin. For  
22 example, Mitigation Measure Policy PS-3.4, states that County shall require an assessment of  
23 impacts on adjacent wells and in-stream flows for new high-capacity wells, including high-  
24 capacity urban and agricultural production wells, where there may be a potential to adversely  
25 affect existing adjacent domestic or water system wells or instream flows, as determined by the  
26 MCWRA. In the case of new high capacity wells for which an assessment shows the potential  
27

1 for significant adverse well interference, Policy PS-3.4 requires that the proposed well site be  
2 relocated or otherwise mitigated to avoid significant interference.

3 32. The EIR Documents describe the importance of agricultural lands to Monterey  
4 County. In certifying the EIR, Defendant COUNTY OF MONTEREY found that that “the  
5 General Plan best protects the economic viability of agricultural land uses”.

6 33. In 2009, Monterey County was the third largest agricultural county in the State of  
7 California according to the California Department of Food and Agriculture “California  
8 Agricultural Resource Directory 2009”. The gross value of agricultural production in 2009  
9 totaled \$4.03 billion according to the 2009 Crop Report compiled by the Monterey County  
10 Agricultural Commissioner. Agricultural operations and related industries bring substantial  
11 benefits to the local economy, including substantial employment opportunities.

12 34. There are 1,185,000 acres in Monterey County that are designated as agricultural  
13 lands. Of this acreage, 236,142 acres are identified as Important Farmland. Important Farmland  
14 includes 167,636 acres of Prime, 43,402 acres of Statewide Importance and 25,104 acres of  
15 Unique Farmland. The remaining acreage (approximately 948,858 acres) is grazing land.

16 35. Important Farmlands stretch about five (5) miles on each side of the Salinas River  
17 and extend to the north along the Pajaro River and Elkhorn Slough area and to the south along  
18 other rivers such as Arroyo Seco River and San Lorenzo Creek. (See Important Farmland Map  
19 included as Exhibit “C” attached hereto and incorporated by reference herein.)

20 36. The EIR Documents analyze the impacts of the General Plan to Important  
21 Farmland from urban conversion and conclude that there would be a conversion of  
22 approximately 2,571 acres of Important Farmland to urban uses. The EIR Documents also  
23 disclose that, while the loss of 2,571 acres of Important Farmland would represent only about  
24 one percent of the total Important Farmland acreage in Monterey County, this impact is  
25 considered significant because the land would be permanently removed from agricultural  
26 production.

1           37. Defendant COUNTY OF MONTEREY certified the EIR, notwithstanding the  
2 significant and unavoidable impacts to Important Farmland (2,571 acres), based upon a finding  
3 of overriding significance premised on the California Housing Element Law (Government Code  
4 Section 65580, *et seq.*), which legally binds County to accommodate the housing needs of  
5 Californians of all economic levels, and upon the justification that farmland conversion to urban  
6 uses must occur as a result of population growth within the County and the cities.

7           38. In contrast, the EIR did not analyze the secondary impacts to Important Farmland  
8 from the General Plan policies and EIR mitigation measures associated with: a) setbacks and b)  
9 limiting or prohibiting use of Important Farmland for wildlife corridor, wetlands, riparian  
10 habitat, erosion control and other protection/preservation measures that would result in the loss  
11 of Important Farmland for farming activities. Consequently, Defendant COUNTY OF  
12 MONTEREY failed to adopt related findings of overriding significance.

13           39. Throughout the public comment process for the EIR and the General Plan,  
14 Plaintiffs submitted written comments and verbal testimony during public hearings, alleging  
15 concerns over the inadequacy of the water supply analysis and its associated mitigation measures  
16 in the Draft EIR, particularly as they relate to the SVWP.

17           40. On or about November 13, 2008, February 2, 2009, and April 13, April 28, July  
18 21, September 13, September 14, September 21, October 12, October 22, and October 26, 2010,  
19 Plaintiffs or their representatives, submitted written comments and/or verbal testimony alleging  
20 substantial inadequacies in the EIR analyses and mitigation measures and infeasible General Plan  
21 policies. Written comments were also submitted on February 2, 2009, and September 20 and  
22 October 26, 2010, by Plan for the People and the Refinement Group<sup>1</sup>, of which several of the  
23 Plaintiffs are members. The written comments and verbal testimony of Plaintiffs and these  
24 entities included the following: (1) significant deficiencies in the biological resources discussion  
25 in the Conservation and Open Space Element of the General Plan and associated discussions and  
26

27 <sup>1</sup> Plan for the People and Refinement Group are organizations comprising community, business and industry  
interests. Both organizations have actively participated in the General Plan process.

1 mitigation measures in the EIR; (2) the EIR's failure to consider impacts to agricultural resources  
2 from these biological resources mitigation measures and policies; (3) a request that County  
3 consult with the Monterey County Agricultural Advisory Committee<sup>2</sup> and the MCWRA Board  
4 of Directors on water-related policies and mitigation measures and related definitions in the  
5 General Plan; (4) concerns over Defendant COUNTY OF MONTEREY's last minute (i.e.,  
6 within several weeks of certifying the EIR), ad hoc changes made to the water-related mitigation  
7 measures and associated policies regarding water supply and water facilities and infrastructure;  
8 (5) the EIR's failure to properly apply the water-related mitigation measures and policies using  
9 basin-by-basin conclusions, particularly since the EIR included such analysis and provided such  
10 conclusions; (6) unreasonable and infeasible General Plan policies and EIR mitigation measures  
11 associated with proving long term sustainable water supply for an indefinite period of time; (7)  
12 unconstitutional application of mitigation measures with insufficient nexus and/or lacking rough  
13 proportionality to identified impacts, particularly for the Salinas Valley Groundwater Basin; and  
14 (8) Defendant COUNTY OF MONTEREY's abuse of its authority by legislatively creating an ad  
15 hoc adjudication of water basins through the General Plan policies and EIR mitigation measures.

16 41. On or about October 12, 2010, and again on October 22, 2010, Attorney Timothy  
17 J. Morgan, on behalf of the Plaintiffs, submitted written comments to Defendant COUNTY of  
18 MONTEREY detailing the unreasonable and infeasible General Plan Public Service policies  
19 associated with proving long term sustainable water supply, and Defendant COUNTY OF  
20 MONTEREY's potential breach of contract against taxpayers paying special assessment for the  
21 SVWP Zone 2-C if Defendant COUNTY OF MONTEREY adopts these policies. Additionally,  
22 these written comments contained in the October 12, 2010 letter raised question of equal  
23 protection based on the distinction between agricultural-related and non-agricultural-related uses  
24 and asked Defendant COUNTY of MONTEREY to exempt Zone 2C from the new water policy  
25 requirements.

26  
27 <sup>2</sup> The purpose of the Agricultural Advisory Committee is to advise and recommend to the Board of Supervisors, and  
28 other County boards, commissions and departments on matters affecting, or of interest to, the agricultural industry.  
SVMW, et al, v. COUNTY OF MONTEREY AMENDED PETITION FOR WRIT  
Monterey County Superior Court, Case No. M109451 OF MANDAMUS AND AMENDED COMPLAINT



1 42. On or after October 27, 2010, a purported notice of determination was posted, by  
2 Defendant COUNTY OF MONTEREY.

3 **IV.**

4 **STANDING AND VENUE**

5 43. Plaintiffs hereby incorporate by reference paragraphs 1 through 42 as if fully set  
6 forth herein.

7 44. Approval and implementation of the General Plan and the certification of the EIR  
8 will adversely affect the public and private interests of Plaintiffs. Plaintiffs have submitted  
9 comments on and objections to Defendant COUNTY OF MONTEREY’s lack of CEQA  
10 compliance, violations of State and Federal Constitutions, and failure to comply with other state  
11 and local laws. Plaintiffs have participated at public hearings before the Defendant COUNTY  
12 OF MONTEREY Planning Commission and Board of Supervisors regarding the General Plan  
13 and the EIR.

14 45. Jurisdiction of this court is invoked pursuant to California Code of Civil  
15 Procedure sections 1085, 1094.5; California Public Resources Code sections 21167, 21168 and  
16 21168.5; CEQA Guidelines section 15112; the Constitution of the State of California; the  
17 Constitution of the United States of America; and common law.

18 46. Venue is proper in this Court because the causes of action alleged in this Petition  
19 and Complaint arose in the County of Monterey where the contract was executed, the General  
20 Plan was adopted, and the EIR was certified.

21 **V.**

22 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

23 47. Plaintiffs hereby incorporate by reference paragraphs 1 through 46 as if fully set  
24 forth herein.

25 48. Plaintiffs have performed all conditions precedent to the filing of this Petition by  
26 raising each and every issue then known to them before Defendant COUNTY OF MONTEREY,  
27

1 in compliance with California Public Resources Code section 21177, and California Code of  
2 Civil Procedure sections 1085 and 1094.5.

3 49. Plaintiffs have complied with the requirements of California Public Resources  
4 Code section 21167.5, by serving a written notice of Plaintiffs' intention to commence this action  
5 on Defendant COUNTY OF MONTEREY on November 24, 2010. A copy of the written notice  
6 and proof of service is Exhibit "D" attached hereto and incorporated by reference herein.

7 50. Pursuant to Public Resources Code section 21167.6, subdivision (b)(2), Plaintiffs  
8 filed concurrently with this Petition and Complaint, Request for Preparation of Record of  
9 Proceeding.

10 51. Plaintiffs have performed any and all conditions precedent to filing this instant  
11 action and have exhausted any and all available administrative remedies to the extent required by  
12 law.

13 VI.

14 STATUTE OF LIMITATION

15 52. Plaintiffs hereby incorporate by reference paragraphs 1 through 51 as if fully set  
16 forth here.

17 53. On October 27, 2010, Defendant COUNTY OF MONTEREY posted a CEQA  
18 Notice of Determination for the EIR.

19 54. This Petition was filed in Monterey County Superior Court not more than thirty  
20 (30) days after Defendant COUNTY OF MONTEREY posted the Notice of Determination.

21 55. Plaintiffs have filed the Petition and Complaint prior to the expiration of any  
22 applicable statute of limitations.

23 56. Plaintiffs have filed this amended Petition and Complaint to add additional  
24 parties.

25 //

26 VII.

27 FIRST CAUSE OF ACTION

1 VIOLATION OF CALIFORNIA ENVIRONMENTAL QUALITY ACT

2 57. Plaintiffs hereby incorporate by reference paragraphs 1 through 56 as if fully set  
3 forth herein.

4 58. As set forth in detail below, Defendant COUNTY OF MONTEREY's action in  
5 certifying the EIR and adopting the General Plan is flawed, inadequate, and incomplete and  
6 constitutes a prejudicial abuse of discretion. Specifically, Defendant COUNTY OF  
7 MONTEREY arbitrarily and capriciously failed to proceed in the manner required by law, and  
8 Defendant COUNTY OF MONTEREY's decision is not supported by substantial evidence in  
9 that Defendant COUNTY OF MONTEREY relied upon a legally inadequate EIR that fails to  
10 meet CEQA's requirements for analyzing and identifying lawful mitigation for significant  
11 project impacts.

12 The EIR Mitigation Measures Violate Constitutional Limitations

13 Contained in CEQA

14 59. In violation of the CEQA provisions recognizing constitutional limitations upon  
15 mitigation, the General Plan incorporates policies intended to mitigate perceived impacts upon  
16 the Salinas Valley Groundwater Basin (including Zone 2-C) despite the lack of any reasonable  
17 relationship, nexus or rough proportionality between the policies and the purported impacts.  
18 (California Public Resources Code §21004; CEQA Guidelines §15126.4(a)(4)(A)-(B).)

19 60. An EIR discussion of mitigation measures is required for significant  
20 environmental effects only, and mitigation measures cannot constitutionally be applied to less  
21 than significant impacts. (California Public Resources Code §21100(b); CEQA Guidelines  
22 §15126.4(a)(4)(A)-(B).) Because the EIR concludes that the impacts to the Salinas Valley  
23 Groundwater Basin are less than significant to 2030, mitigation measures/policies applied to the  
24 Salinas Valley Groundwater Basin are in violation of the CEQA and the CEQA Guidelines.  
25 Under Public Resources Code section 21004, Defendant COUNTY OF MONTEREY may only  
26 exercise those express or implied powers provided by law in mitigating a significant effect of a  
27 project on the environment. Two such important limitations derive from the U.S. Constitution

1 Amendment 14, Section 1 and the California Constitution Article 1, Section 7, and further  
2 described in CEQA Guidelines Section 15126.4(a)(4)(A)-(B) are as follows:

3 Mitigation measures must be consistent with all applicable constitutional requirements,  
4 including the following:

5 1. There must be an essential nexus (i.e. connection) between the mitigation measure and  
6 a legitimate governmental interest. *Nollan v. California Coastal Commission*, 483 U.S.  
825 (1987); and

7 2. The mitigation measure must be "roughly proportional" to the impacts of the project.  
8 *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measure is an ad hoc  
9 exaction, it must be "roughly proportional" to the impacts of the project. *Ehrlich v. City*  
10 *of Culver City* 12 Cal.4th 854 (1996).

11 61. In certifying the EIR, Defendant COUNTY OF MONTEREY concluded that the  
12 level of significance of water supply impacts vary between different parts of the County (i.e.,  
13 between the three groundwater basins), and thus, multiple findings for each of the three  
14 watersheds in Monterey County were needed and were subsequently made.

15 62. For the life of the General Plan (i.e., 2030) and for full build-out of the General  
16 Plan (i.e., 2092), Defendant COUNTY OF MONTEREY expressly found that all potential  
17 impacts of the General Plan upon the Salinas Valley Groundwater Basin will be less than  
18 significant, except Impact WR-7. Water Supply Impact WR-7 identified impacts associated with  
19 increased groundwater pumping, resulting in increased saltwater intrusion as a result of land uses  
20 and development for the 82 year time frame. The CEQA Findings of Facts found this Impact  
21 WR-7 significant and unavoidable for 2092 "due to future uncertainty" even with Mitigation  
22 Measures WR-2 and BIO-2.3.

23 63. More specifically, Defendant COUNTY OF MONTEREY Board of Supervisors  
24 made the findings that: (a) Water Supply Impact WR-4 (i.e., water supplies) is less than  
25 significant for the Salinas Valley Groundwater Basin until year 2030, and less than significant  
26 with Mitigation Measure WR-2 until year 2092; (b) Water Supply Impact WR-6 (i.e., demand on  
27 groundwater supplies resulting in decline of groundwater levels and accelerated overdraft) is

1 less than significant for the Salinas Valley Groundwater Basin (which includes Zone 2-C) until  
2 year 2030, and less than significant with Mitigation Measure WR-2 until year 2092; and (c)  
3 Water Supply Impact WR-7 is less than significant until year 2030 due to the effect of the SVWP  
4 on halting further overdraft compared to the baseline.

5 64. Defendant COUNTY OF MONTEREY nevertheless adopted Mitigation  
6 Measures/Policies, including Mitigation Measures/Policies PS-3.2, PS-3-3, PS-3.4, and BIO-2.3,  
7 to mitigate for the less than significant components of Water Supply Impacts WR-4, WR-2 and  
8 WR-7 to the Salinas Valley Groundwater Basin until the year 2030. Defendant COUNTY OF  
9 MONTEREY's conduct constitutes an arbitrary and capricious failure to proceed as required by  
10 law.

11 65. Defendant COUNTY OF MONTEREY further improperly applied mitigation  
12 measures to impacts of Mitigation Measure Policy WR-7 and secondary impacts of Mitigation  
13 Measure Policy WR-2, despite conclusions in the EIR Documents that these impacts cannot be  
14 meaningfully analyzed. (*Topanga Beach Renters Association v. Department of General Services*  
15 (1976) 58 Cal.App.3d 188, 196.)

16 66. By arbitrarily and capriciously adopting policies to mitigate speculative impacts,  
17 Defendant COUNTY OF MONTEREY violated CEQA, the Guidelines and the constitutional  
18 requirements for a nexus and rough proportionality referenced therein. (California Public  
19 Resources Code §§21100(b); CEQA Guidelines §15126.4(a)(4)(A)-(B).)

20 **EIR Failed to Evaluate Secondary Effects to Important Farmland**

21 67. In certifying the EIR, Defendant COUNTY OF MONTEREY failed to evaluate  
22 potentially significant impacts to agricultural resources arising from certain mitigation  
23 measures/policies that seek to preserve species, wildlife corridors, and habitats and protect  
24 against erosion. Identification of a project's significant environmental effects is one of the  
25 primary purposes of an EIR. (California Public Resources Code §21002.1(a); CEQA Guidelines  
26 §15126.4(a)(1)(D).)

1           68.     The EIR's identification of significant environmental effects and recommendation  
2 of mitigation measures is inconsistent. For example, the EIR identifies specific acreage of  
3 Important Farmland lost (2,571 acres) due to urban conversion, and disclose that, "While the loss  
4 of 2,571 acres of Important Farmland would represent only about one percent of the total  
5 Important Farmland acreage in Monterey County, this is considered significant because the land  
6 would be permanently removed from agricultural production."

7           69.     In contrast, the EIR fails to evaluate the loss of Important Farmland due to those  
8 General Plan policies and mitigation measures associated with erosion, species, wildlife corridor  
9 and habitat protection that would result in the loss of usable Important Farmland for farming  
10 activities. More specifically, the EIR did not consider the impacts to Important Farmland from  
11 Mitigation Measure BIO-2.1/Policy OS-5.22, which was revised near the date Defendant  
12 COUNTY OF MONTEREY Board of Supervisors certified the EIR. Mitigation Measure BIO-  
13 2.1 states that "the stream setback ordinance will delineate appropriate uses within the setback  
14 area that shall not cause removal of riparian habitat, compromise identified riparian wildlife  
15 corridors, or compromise water quality of the relevant stream."<sup>3</sup>

16           70.     Important Farmlands stretch about five (5) miles on each side of the Salinas River  
17 and extend to the north along the Pajaro River and Elkhorn Slough area and to the south along  
18 other rivers such as Arroyo Seco River and San Lorenzo Creek. Setback policies associated with  
19 the riparian habitat, wildlife corridor, wetlands and other species and habitat preservation will  
20 necessarily preclude the use of an unspecified amount of land classified as Important Farmland.  
21 The EIR failed to consider or recognize this impact to Important Farmland in violation of CEQA.

22           71.     Similarly, the EIR failed to recognize or evaluate the impacts to Important  
23 Farmland due to the stringent limitation (and prohibition for North County) on agricultural uses  
24 on slopes in excess of 25 percent in violation of California Public Resources Code section  
25 21002.1(a).

26 \_\_\_\_\_  
27 <sup>3</sup> The ordinance will apply to the conversion of lands uncultivated for the previous 30 years, despite their  
28 agricultural classification.

1           74. For the purpose of the impact analysis in Water Resources Chapter 4.3, the EIR  
2 relied on the concept of "Long Term Sustainable Water supply", not the term "Long Term Water  
3 Supply." For example, Policy PS-3.1 provides that new development for which a discretionary  
4 permit is required, and which will use or require the use of water, shall be prohibited (with  
5 certain exceptions) without proof, based on specific findings and supported by evidence, that  
6 there is a long-term, sustainable water supply, both in quality and quantity to serve the  
7 development.

8           75. "Feasible" means capable of being accomplished in a successful manner within a  
9 reasonable period of time, taking into account economic, environmental, social, and  
10 technological factors." (California Public Resources Code §21061.1.) Only where substantial  
11 evidence supports the approving agency's conclusion that mitigation measures will be effective,  
12 will courts uphold such measures against attacks based on their alleged inadequacy. (*Laurel*  
13 *Heights*, supra, 47 Cal.3d at p. 407.) Here, proving the availability of Long Term Sustainable  
14 Water Supply for an indefinite period cannot be accomplished in a successful manner within a  
15 reasonable period of time, taking into account economic, environmental, social, and  
16 technological factors, and is thus infeasible and inadequate in violation of CEQA.

17                           **Invalid Findings of Overriding Consideration**

18           76. Defendant COUNTY OF MONTEREY's finding of overriding consideration is  
19 unsupported and invalid. Under CEQA, a public agency cannot approve a project for which an  
20 environmental impact report has been certified which identifies one or more significant effects  
21 on the environment unless the agency makes one or more findings accompanied by an  
22 explanation of the rationale for the finding(s) for each significant environmental impacts...  
23 identified. (*California Public Resources Code §21081; Village Laguna of Laguna Beach, Inc. v.*  
24 *Board of Supervisors* (1982) 134 Cal. App. 3d 1022, 1034.)

25           77. The findings of overriding consideration for approval of the General Plan and  
26 adoption of the EIR did not fully disclose or accurately reflect significant impacts to Important  
27 Farmland. Thus, Defendant COUNTY OF MONTEREY's adoption of the General Plan and

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The EIR's Definition of Long Term Sustainable Water Supply is  
Unconstitutionally Overbroad and its Mitigation Measures are Infeasible

72. The EIR and General Plan definition of "Long Term Sustainable Water Supply" is impermissibly over broad and indefinite, resulting in facially infeasible policies and mitigation measures. California Public Resources Code section 21002 requires agencies to adopt *feasible* mitigation measures to substantially lessen or avoid otherwise significant adverse environmental impacts. Proving the availability of a Long Term Sustainable Water Supply for an indefinite period of time is a factual impossibility and necessarily results in a lack of the constitutional nexus and proportionality required under CEQA between mitigation measures/policies and the adverse impacts identified in the EIR.

73. In the General Plan, the term "Long Term Sustainable Water Supply" means A water supply from any source (e.g., groundwater, surface water, aquifer storage recovery project or other) that can provide for the current and projected future demand for water from that source as determined pursuant to the criteria required to be adopted by Policy PS-3.2.

The EIR defines the term Long Term Sustainable Water Supply as follows:

[T]he use of groundwater in a manner that can be maintained for an indefinite time without causing unacceptable environmental, economic or social consequences taking into account the effects of pumping (safe yield) and the ability to reverse trends that are depleting supply and renew basin functions through various means.

The EIR further distinguishes between the terms "Long Term Water Supply" and "Long Term Sustainable Water Supply", which are used in various mitigation measures in the EIR:

"Long term sustainable water supply", as referenced in General Plan goal PS-3 and policies under goal PS-3, examines the groundwater basin or sub-area in a broader context and does not have a specific timeframe. "Long term water supply" typically would look at a more localized area than long term sustainable supply. Twenty years is the planning horizon for considering whether a water company, for example, has access to supply for 20 years, based on its technical, managerial and financial capabilities, permits from the CPUC and operational plans into the future. The 20-year time horizon is not part of the definition of "sustainable" supply. For a groundwater supply, a "long-term water supply" would need to have a safe yield for a minimum of a 20-year period.



1 certification of the EIR was not supported by substantial evidence and was arbitrary, capricious  
2 and invalid.

3 **Procedural Violation Under CEQA**

4 78. The General Plan adopted by Defendant COUNTY OF MONTEREY Board of  
5 Supervisors made substantial changes to the plan policies requiring revisions to the EIR.  
6 Defendant COUNTY OF MONTEREY released a 148-page document styled "Supplemental  
7 Materials to the Final EIR" eleven (11) days before Defendant COUNTY OF MONTEREY  
8 Board of Supervisors certified the EIR and adopted the General Plan. The magnitude of changes  
9 to the General Plan constituting the CEQA project required a subsequent or supplemental EIR  
10 under CEQA, and the "Supplemental Materials to the Final EIR" was a defacto subsequent or  
11 supplemental EIR requiring recirculation. Defendant COUNTY OF MONTEREY's failure to  
12 recirculate the Supplemental Materials to the Final EIR document for a 30 to 45-day period  
13 deprived the public and the decision makers of an adequate review period by arbitrarily  
14 bypassing the procedural requirements of California Public Resources Code section 21166 and  
15 CEQA Guidelines section 15162.

16 **VIII.**

17 **SECOND CAUSE OF ACTION**

18 **RESCISSION OR AMENDMENT OF GENERAL PLAN**

19 79. Plaintiffs hereby incorporate by reference paragraphs 1 through 78 as if fully set  
20 forth herein.

21 **Failure to Follow Procedural Requirements Under Government Code**

22 80. Defendant COUNTY OF MONTEREY Board of Supervisors improperly made  
23 substantial changes to the General Plan without remanding it back to the Planning Commission  
24 as required under section 65356 of the Government Code. As such, Defendant COUNTY OF  
25 MONTEREY failed to proceed in a manner required by law, and the General Plan must be set  
26 aside.

27 **Failure to Proceed in a Manner Required by CEQA**

1 81. As hereinabove alleged in Plaintiffs' First Cause of Action, Defendant COUNTY  
2 OF MONTEREY failed to proceed in the manner required under CEQA by, inter alia, adopting  
3 inadequate Statement of Overriding Considerations in violation of California Public Resources  
4 Code section 21081, subd. (b) and CEQA Guidelines §15093.

5 82. Defendant COUNTY OF MONTEREY's failure to follow the procedural  
6 requirement for certifying the EIR rendered the adoption of the General Plan arbitrary, capricious  
7 and invalid, and therefore, the General Plan must be set aside.

8 IX.

9 THIRD CAUSE OF ACTION  
10 VIOLATION OF STATE WATER CODE

11 83. Plaintiffs hereby incorporate by reference paragraphs 1 through 82 as if fully set  
12 forth herein.

13 84. Through the adoption of the General Plan and the certification of the EIR,  
14 Defendant COUNTY OF MONTEREY has exceeded its lawful authority by creating an ad-hoc  
15 legislative scheme for the adjudication of Monterey County's groundwater basins. Defendant  
16 COUNTY OF MONTEREY have granted itself an unfettered discretion to determine water  
17 rights based on instream flow, interference, and other mitigation measures to deny applicants the  
18 reasonable and beneficial use of water rights.

19 85. The authority to adjudicate water basins is expressly granted to the California  
20 State Water Resources Control Board and the courts, either through a statutory procedure set  
21 forth in Water Code §2500 *et seq.*, or through a court procedure set forth in Water Code §2000 *et*  
22 *seq.* It is during these procedures that all water rights in a basin/river are considered, including  
23 those to preserve instream uses for recreation and fish and wildlife habitat. (Water Code §1500  
24 *et seq.*)

25 86. The extent and priority of water rights in a basin or river system must occur in a  
26 judicial or statutory proceeding and not through a defacto application-by-application adjudication  
27 of Monterey County's groundwater basins, subject to abuse without sufficient safeguard.

1 Defendant COUNTY OF MONTEREY abused its discretion in violation of Water Code sections  
2 2000 *et seq.* and 2500 *et seq.*

3 X.

4 FOURTH CAUSE OF ACTION

5 VIOLATION OF DUE PROCESS OF LAW

6 87. Plaintiffs hereby incorporate by reference paragraphs 1 through 86 as if fully set  
7 forth herein.

8 88. The following actions and inactions of Defendant COUNTY OF MONTEREY,  
9 taken together, constitute an invalid exercise of the police power, in as much as they deprive  
10 Plaintiffs the right to reasonable use and enjoyment of their property, in violation of the Fifth and  
11 Fourteenth Amendments of the Constitution of the United States:

12 A. Defendant COUNTY OF MONTEREY'S failure to comply with  
13 applicable law, including CEQA, in the adoption of the General Plan; and

14 B. Defendant COUNTY OF MONTEREY'S adoption of vague, imprecise  
15 and overly broad policies in the General Plan, lacking adequate procedural  
16 safeguards to limit the discretion of those administering them.

17  
18 XI.

19 FIFTH CAUSE OF ACTION

20 ANTICIPATORY BREACH OF CONTRACT

21 89. Plaintiffs hereby incorporate by reference paragraphs 1 through 88 as if fully set  
22 forth herein.

23 90. On or about April 8, 2003, Plaintiffs and Defendant COUNTY OF MONTEREY  
24 entered into a written contract by the effect of the passage of the Proposition 218 measure  
25 authorizing the SVWP. The essential elements of this contract are as follows:

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- A. The parties to the contract are property owners within Zone 2C subject to the assessment authorized by the Proposition 218 Measure and the County of Monterey/MCWRA.
- B. The property owners within the newly-described Zone 2C would pay a new property tax assessment to repay bonds to be issued to fund the SVWP.
- C. The County of Monterey/MCWRA would construct the SVWP, which consists of the following “components” as defined in two ballot mailers provided to voters in January and February 2003, in anticipation of the ballot measure election:
  - Modify the spillway of Nacimiento Dam to meet state and federal flood control mandates and improve operational flexibility to store more water. The dam height and storage volume will be unchanged, but prolonged releases of water will be able to recharge the Salinas River aquifers with additional percolation.
  - Construct a diversion facility (rubber dam) on the Salinas River near Marina that can be lowered in wet times and raised in drier times when water will be released from the Nacimiento Reservoir. Seasonally stored water from the temporary diversion will be delivered for irrigation through existing Castroville Seawater Intrusion Project pipelines, reducing the need for pumping groundwater.
  - Provide infrastructure to help solve the Salinas Valley water challenges.
  - Balance the Salinas Valley Groundwater Basin.
  - Preserve fish passage on the Salinas River.
  - Stop seawater intrusion and secure local water supplies for future generations.
- D. A key element of the promise made by Defendant COUNTY OF MONTEREY is the promise of secure future water sources. The Executive Summary of the Final Engineer’s Report on the design of the SVWP opines that one of the “water supply goals” of the SVWP is: “Providing a sufficient water supply to meet water

1 needs through the year 2030.” Additionally, the Draft EIR for the SVWP opines  
2 that an objective of the project was to “Provid[e] adequate water supplies to meet  
3 current and future (year 2030) needs....”

4 91. Board Resolution No. 03-017, an Assessment Ballot Proceeding, adopted  
5 defendant COUNTY OF MONTEREY Board of Supervisors, included the following language,  
6 evidencing the guarantee of a long term source of water: “The MCWRA, after extensive public  
7 input over most of the past decade, has developed the Salinas Valley Water Project (“SVWP”) to  
8 increase flood protection, halt seawater intrusion, and assure a sufficient quantity and quality  
9 of water supplies to meet agricultural and urban needs with the Salinas Valley and  
10 Monterey County through the year 2030.” (Emphasis added.)

11 92. Plaintiffs are informed and believe and thereon allege that Defendant COUNTY  
12 OF MONTEREY was aware of and endorsed the provision of the contract guaranteeing an  
13 adequate supply of water. Ordinance No. 04203, unanimously approved by Defendant  
14 COUNTY OF MONTEREY on July 22, 2003, which ordinance “confirmed” approval of the  
15 SVWP by the Proposition 218 measure, includes the following finding and declaration:

16 “B. MCWRA developed the Salinas Valley Water Project (“SVWP”) based on  
17 extensive stakeholder, public, regulatory, and technical input over the last decade to  
18 increase flood protection, address seawater intrusion, and assure a sufficient  
19 quantity and quality of water supplies to meet agricultural and urban needs  
20 within the Salinas Valley through the year 2030...” (Emphasis added.)

21 93. Plaintiffs are informed and believe and thereon allege that under the terms of the  
22 contract created by the Proposition 218 measure, Defendant COUNTY OF MONTEREY has  
23 obligated itself to provide water for all contemplated development projects within Zone 2C  
24 through the year 2030.

25 94. Plaintiffs are informed and believe and thereon allege that Defendant COUNTY  
26 OF MONTEREY induced the property owners/votes in the Proposition 218 measure to vote in  
27 favor of the measure in significant part with the promise that the SVWP would provide for  
28 current and future water requirements, through the year 2030.

1 95. Plaintiffs are informed and believe and thereon allege that Defendant COUNTY  
2 OF MONTEREY has not, since the adoption of the Proposition 218 measure, required any  
3 proposed development within Zone 2C to prove a long term sustainable water supply (and  
4 certainly not to 2030) as a condition of a development or use permit. Thus, the Defendant  
5 COUNTY OF MONTEREY has, heretofore, been performing the contract provision relating to  
6 water availability for development within that zone.

7 96. Plaintiffs are informed and believe and thereon allege that the effect of adoption  
8 of Policies PS-3.1 and PS-3.2 is to give notice that Defendant COUNTY OF MONTEREY will  
9 no longer perform its obligations under the contract formed by passage of the Proposition 218  
10 measure and has abrogated its promise to assure sufficient water to meet the water needs of Zone  
11 2C through the year 2030.

12 97. At the time of Defendant MONTEREY COUNTY's repudiation of its obligation  
13 under the contract, any plaintiffs herein who are obligated as property owners within Zone 2C to  
14 make property tax payments under the assessments authorized by the Proposition 218 measure  
15 are current on such payments and have fully performed their obligations under the contract to  
16 date and are ready, able, and willing to continue to perform their obligations under the contract.

17 **XII.**

18 **SIXTH CAUSE OF ACTION**

19 **UNCONSTITUTIONAL IMPAIRMENT OF A CONTRACT**

20 98. Plaintiffs hereby incorporate by reference paragraphs 1 through 97 as if fully set  
21 forth herein.

22 99. To the extent that the General Plan Update approved by the Defendant COUNTY  
23 OF MONTEREY Board of Supervisors authorizes the County to adopt regulations and/or  
24 ordinances which would impair the obligations of Defendant COUNTY OF MONTEREY to  
25 Plaintiffs, such General Plan Update violates Article 1, § 9, of the California Constitution and  
26 Article 1, § 10, of the United States Constitution.

27 **XIII.**

1 SEVENTH CAUSE OF ACTION

2 EQUAL PROTECTION

3 100. Plaintiffs hereby incorporate by reference paragraphs 1 through 99 as if fully set  
4 forth herein.

5 101. The General Plan does not define what sort of development is "related" to  
6 agriculture. Plaintiffs are unaware of any other document which would define uses "related" to  
7 agriculture.

8 102. The development requirement in the GPU Policies PS-3.1 and PS-3.2 is  
9 specifically related to water use - requiring certain developments to demonstrate long-term,  
10 sustainable water supplies sufficient for the proposed use before they can be approved.  
11 However, the distinction as to which types of development are required to meet to the new policy  
12 and those which are not is not based in any way on how such development will use water.  
13 Instead, the distinction is based on whether or not the development is related to agricultural land  
14 uses. For example, a farm equipment dealer might be considered "related" to agricultural land  
15 use and be exempt from the water requirements, while a car dealership, with identical impacts,  
16 would not be so exempt. As the underlying policy concern is impact to water supply, such a  
17 distinction would be flatly irrational. Plaintiffs are informed and believe and thereon allege that  
18 the distinction included in Policies PS-3.1 and PS-3.2 is not rationally related to the underlying  
19 policy regarding supply of water and constitute a denial of equal protection to Plaintiffs and  
20 other property owners within Zone 2C within the meaning of the 14th Amendment of the United  
21 States Constitution and the California Constitution, Article 1, § 7.

22 103. Plaintiffs are informed and believe that, even if the distinction created in Policies  
23 3.1 and 3.2 were not irrational, in the absence of any definition of what will be considered  
24 "related" to agriculture, the GPU Policies PS-3.1 and PS-3.2 invest excessive discretion in those  
25 County agencies which will be responsible for interpreting the Policies and will lead to  
26 capricious and improper abuses of discretion.

27 XIV.

1 **EIGHTH CAUSE OF ACTION**

2 **VIOLATION OF CIVIL RIGHTS – 42 U.S.C. SECTION 1983**

3 104. Plaintiffs hereby incorporate by reference paragraphs 1 through 103 as if fully set  
4 forth herein.

5 105. By Defendant COUNTY OF MONTEREY's arbitrary and wrongful acts  
6 described herein, Defendant COUNTY OF MONTEREY has acted under color of state law to  
7 treat Plaintiffs in a discriminatory and unequal manner, in violation of Plaintiffs' federal  
8 constitutional and statutory rights.

9 106. As a direct and proximate result of Defendant COUNTY OF MONTEREY's  
10 actions, Plaintiffs have been deprived of federal and constitutional and statutory rights and is  
11 entitled to recover damages in an amount according to proof at trial together with its reasonable  
12 attorneys' fees and costs as determined by the Court.

13 107. Plaintiffs' cause of action based on 42 U.S.C. section 1983 is not a claim for  
14 money or damages with the meaning of Government Code section 905 and 905.2, and is not  
15 subject to claims presentation requirement.

16 **XV.**

17 **NINTH CAUSE OF ACTION**

18 **INVERSE CONDEMNATION**

19 108. Plaintiffs hereby incorporate by reference paragraphs 1 through 107 as if fully set  
20 forth herein.

21 109. As a direct and proximate result of Defendant COUNTY OF MONTEREY's  
22 violations of the Constitutions of the United States and the State of California and of California  
23 law, Plaintiffs have suffered damages and is entitled to recover damages in an amount according  
24 to proof at trial together with its reasonable attorneys' fees and costs and determined by the  
25 Court. Defendant COUNTY OF MONTEREY has denied Plaintiffs the right to make  
26 economically viable, productive, or beneficial use of their properties, and have thus taken  
27 Plaintiffs' property without compensation.



1 110. Plaintiffs' cause of action for inverse condemnation based on regulatory taking is  
2 not a claim for money or damages within the meaning of Government Code Sections 905 and  
3 905.2, and is not subject to claims presentation requirements.

4  
5 XVI.  
6 TENTH CAUSE OF ACTION  
7 INJUNCTIVE RELIEF

8 111. Plaintiffs hereby incorporate by reference paragraphs 1 through 110 as if fully set  
9 forth herein.

10 112. An actual controversy has arisen concerning Defendant COUNTY OF  
11 MONTEREY' failure to comply with California Public Resources Code section 21000, *et seq.*  
12 and other provisions of law, all as set forth above, concerning the General Plan and EIR.

13 113. As a result of the above alleged violations of California Public Resources Code  
14 section 21000, *et seq.* and Government Code section 65300, *et seq.*, Defendant COUNTY OF  
15 MONTEREY have failed to proceed as required by law.

16 114. At all times mentioned herein, Defendant COUNTY OF MONTEREY has been  
17 able to reject approval or certification of the EIR and approval of the General Plan.  
18 Notwithstanding such ability, Defendant COUNTY OF MONTEREY has failed and continues to  
19 fail to perform their duty to reject the approval or certification of the EIR and approval of the  
20 General Plan.

21 115. Plaintiffs are informed and believe and thereon allege that Defendant COUNTY  
22 OF MONTEREY is threatening to proceed with implementation of the General Plan. Said  
23 implementation will irreparably harm Plaintiffs' constitutional, property and water rights.

24 116. Plaintiffs possess no speedy, adequate remedy at law unless this court grants the  
25 requested writ of mandate to require Defendant COUNTY OF MONTEREY to set aside its  
26 certification of the EIR and approval of the General Plan. In the absence of such relief,  
27 Defendant COUNTY OF MONTEREY's approval will remain in effect in violation of state law,  
28 and Plaintiffs as local residents, landowners, property stewards, citizens and taxpayers of the

1 County of Monterey will suffer irreparable and permanent injuries if Defendant COUNTY OF  
2 MONTEREY's actions herein are not set aside.

3 117. A stay and/or restraining order, temporary and permanent injunction should be  
4 issued restraining Defendant COUNTY OF MONTEREY from proceeding with implementation  
5 of the General Plan.

6 **XVII.**

7 **ELEVENTH CAUSE OF ACTION**

8 **DECLARATORY RELIEF**

9 118. Plaintiffs hereby incorporate by reference paragraphs 1 through 117 as if fully set  
10 forth herein.

11 119. Plaintiffs contend that the certification of the EIR and approval of the General  
12 Plan were invalid and were not lawfully adopted. Defendant COUNTY OF MONTEREY  
13 contends to the contrary.

14 120. An actual and justifiable controversy has arisen between the parties, and Plaintiffs  
15 are entitled to a judicial declaration of the rights and responsibilities of the parties.

16 **XVIII.**

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs pray for judgment as follows:

19 1. On the First Cause of Action, for extraordinary relief in the form of mandamus or  
20 injunction ordering Defendant COUNTY OF MONTEREY to rescind the approval of the  
21 General Plan, to rescind the certification of the EIR, and ordering Defendant COUNTY OF  
22 MONTEREY to expeditiously prepare and certify a legally adequate EIR for the General Plan;

23 2. On the Second Cause of Action, for extraordinary relief in the form of an order  
24 invalidating and staying the implementation of the General Plan, and for a preliminary injunction  
25 and permanent injunction enjoining Defendant COUNTY OF MONTEREY from engaging in  
26 any activity pursuant to the General Plan, until legally adequate EIR and General Plan are  
27

1 prepared in compliance with California regulations and statutes, State and Federal Constitutions,  
2 and all other applicable state and local laws;

3 3. In the alternative to the First and Second Causes of Action, for a declaration that  
4 Defendant COUNTY OF MONTEREY's actions in approving the General Plan and certifying  
5 the EIR violated CEQA, State and Federal Constitution, and all other applicable state and local  
6 laws;

7 4. On the Third Cause of Action for violations of the Water Code, for extraordinary  
8 relief in the form of mandamus or injunction ordering Defendant COUNTY OF MONTEREY to  
9 rescind the approval of General Plan Policies PS-3.1, PS-3.2, PS-3.3, and PS-3.4 and its  
10 definition of Long Term Sustainable Water Supply;

11 5. On the Fourth, Sixth, Seventh, Eighth, and Ninth Causes of Action for  
12 constitutional violations and property damages, for damages in an amount according to proof and  
13 exceeding the jurisdictional minimum of this Court, with interest thereon from the date of the  
14 damages;

15 6. On Fifth Cause of Action, for an order determining that Defendant COUNTY OF  
16 MONTEREY have breached the contractual obligation under the Proposition 218 measure  
17 creating the Salinas Valley Water Project; for an order withdrawing Policies PS-3.1 and PS-3.2  
18 of the General Plan Update and an order for Defendant COUNTY OF MONTEREY to  
19 specifically perform their obligations under the Proposition 218 measure; for reasonable  
20 attorneys' fees under California Code of Civil Procedure section 1021.5, California Government  
21 Code sections 800, 6261 and 54960.5, and other provisions of law;

22 ~~7. On the Sixth Cause of Action for violation of civil rights, for damages in an~~  
23 ~~amount according to proof and exceeding the jurisdictional minimum of this Court, with interest~~  
24 ~~thereon from the date of the damages;~~

25 **Other Relief**

- 26 8. For costs of suit;  
27 9. For reasonable attorneys' fees; and,

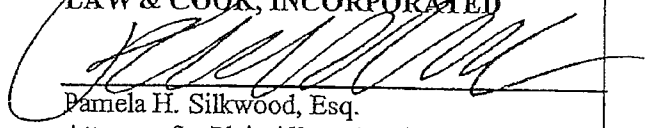
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10. For such other and further relief as the court deems proper.

Dated: January 10, 2011

Respectfully submitted,

**LAW OFFICES OF HORAN, LLOYD,  
KARACHALE, DYER, SCHWARTZ,  
LAW & COOK, INCORPORATED**



Pamela H. Silkwood, Esq.  
Attorney for Plaintiffs and Petitioners

**Law Offices of Timothy J. Morgan**

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Timothy J. Morgan, Esq.  
Attorney for Plaintiffs and Petitioners

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10. For such other and further relief as the court deems proper.

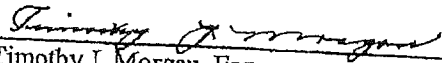
Respectfully submitted,

LAW OFFICES OF HORAN, LLOYD,  
KARACHALE, DYER, SCHWARTZ,  
LAW & COOK, INCORPORATED

Dated: 01-10-2011

Pamela H. Silkwood, Esq.  
Attorney for Plaintiffs and Petitioners

Law Offices of Timothy J. Morgan

  
Timothy J. Morgan, Esq.  
Attorney for Plaintiffs and Petitioners

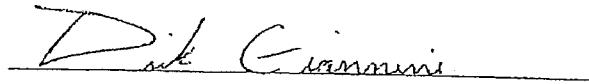
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VERIFICATION

I, Dirk Giannini, declare as follows:

I am the agent for Plaintiff and Petitioner Monterey County Farm Bureau in this action. I have read the foregoing AMENDED COMPLAINT FOR ANTICIPATORY BREACH OF CONTRACT (DAMAGES), BREACH OF CONTRACT (ESTOPPEL); AMENDED PETITION FOR WRIT OF MANDAMUS, DECLARATORY RELIEF AND INJUNCTIVE RELIEF; AMENDED COMPLAINT FOR CONSTITUTIONAL VIOLATIONS AND INVERSE CONDEMNATION and know the contents therein to be true and accurate as to my own knowledge, and to those statements based on information and belief, I believe them to be true. I make this Verification on behalf of Plaintiff and Petitioner Monterey County Farm Bureau.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct and that this Verification was executed on 1-7-11 in Salinas, Monterey County, California.



Dirk Giannini  
President, Monterey County Farm Bureau

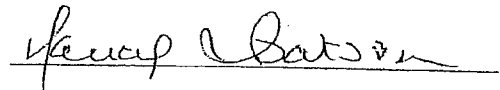
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VERIFICATION

I, Nancy Isakson, declare as follows:

I am the agent for Plaintiff and Petitioner Salinas Valley Water Coalition in this action. I have read the foregoing AMENDED COMPLAINT FOR ANTICIPATORY BREACH OF CONTRACT (DAMAGES), BREACH OF CONTRACT (ESTOPPEL); AMENDED PETITION FOR WRIT OF MANDAMUS, DECLARATORY RELIEF AND INJUNCTIVE RELIEF; AMENDED COMPLAINT FOR CONSTITUTIONAL VIOLATIONS AND INVERSE CONDEMNATION and know the contents therein to be true and accurate as to my own knowledge, and to those statements based on information and belief, I believe them to be true. I make this Verification on behalf of Plaintiff and Petitioner Salinas Valley Water Coalition.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct and that this Verification was executed on 1/7/2011 in Salinas, Monterey County, California.



Nancy Isakson  
President, Salinas Valley Water Coalition


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VERIFICATION

I, Ken Scherpinski, declare as follows:

I am the agent for Plaintiff and Petitioner Monterey/Santa Cruz Counties Building and Construction Trades Council in this action. I have read the foregoing AMENDED COMPLAINT FOR ANTICIPATORY BREACH OF CONTRACT (DAMAGES), BREACH OF CONTRACT (ESTOPPEL); AMENDED PETITION FOR WRIT OF MANDAMUS, DECLARATORY RELIEF AND INJUNCTIVE RELIEF; AMENDED COMPLAINT FOR CONSTITUTIONAL VIOLATIONS AND INVERSE CONDEMNATION and know the contents therein to be true and accurate as to my own knowledge, and to those statements based on information and belief, I believe them to be true. I make this Verification on behalf of Plaintiff and Petitioner Monterey/Santa Cruz Counties Building and Construction Trades Council.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct and that this Verification was executed on 1/7/2011 in Castroville, Monterey County, California.

  
Ken Scherpinski  
President, Monterey/Santa Cruz Counties  
Building and Construction Trades Council



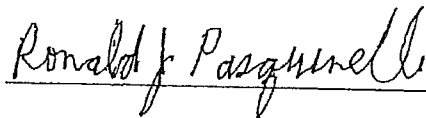
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VERIFICATION

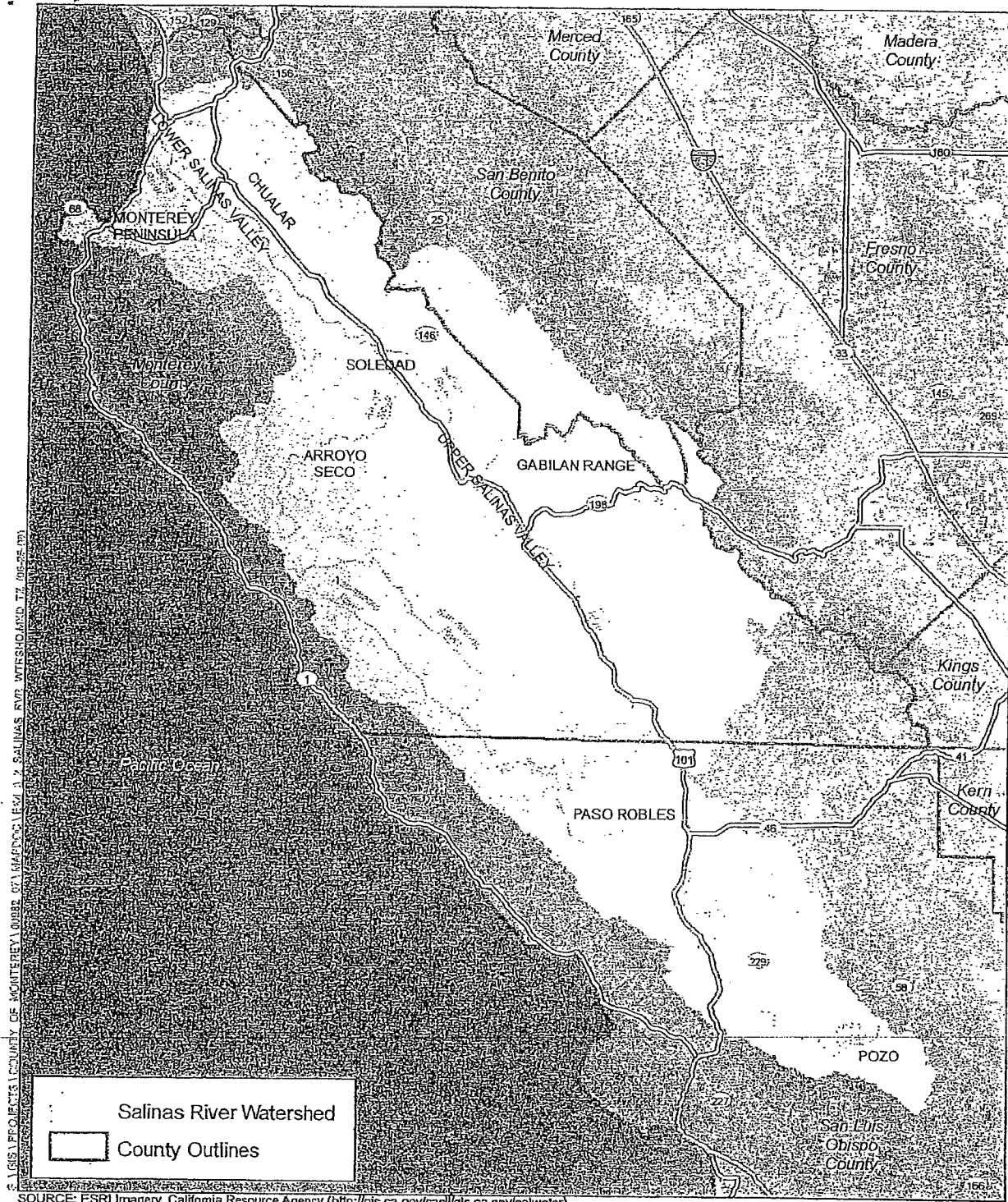
I, Ron Pasquinelli, declare as follows:

I am the agent for Plaintiff and Petitioner Monterey Peninsula Taxpayers Association in this action. I have read the foregoing AMENDED COMPLAINT FOR ANTICIPATORY BREACH OF CONTRACT (DAMAGES), BREACH OF CONTRACT (ESTOPPEL); AMENDED PETITION FOR WRIT OF MANDAMUS, DECLARATORY RELIEF AND INJUNCTIVE RELIEF; AMENDED COMPLAINT FOR CONSTITUTIONAL VIOLATIONS AND INVERSE CONDEMNATION and know the contents therein to be true and accurate as to my own knowledge, and to those statements based on information and belief, I believe them to be true. I make this Verification on behalf of Plaintiff and Petitioner Monterey Peninsula Taxpayers Association.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct and that this Verification was executed on 1/8/11 in MONTEREY, Monterey County, California.

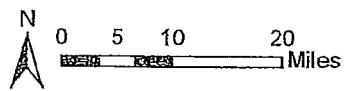


Ron Pasquinelli, President  
Monterey Peninsula Taxpayers Association



SALINAS RIVER WATERSHED, COUNTY OF MONTEREY, COUNTY OF MADERA, COUNTY OF SAN BENITO, COUNTY OF FRESNO, COUNTY OF KINGS, COUNTY OF KERN, COUNTY OF SAN LUIS OBISPO

SOURCE: ESRI Imagery, California Resource Agency (<http://gis.ca.gov/casllgis.ca.gov/calwater>)
















**Exhibit 4.3.2**  
**Salinas River Watershed**

# Exhibit A

# Proposed Zone 2C Boundary and Existing Zone 2A Boundary

## Legend

-  Zone 2C Boundary
-  Zone 2A Boundary
-  Major Roads
-  Cities
-  Water Bodies
-  Subarea
-  Pressure
-  Eastside
-  Forebay
-  Arroyo Seco
-  Upper Valley
-  Below Dam
-  Above Dam



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Miles



Note: The scale and configuration of information shown on this map are for informational purposes only and are not intended as a public utility or design work.

Map Date: January 24, 2003

# Exhibit B

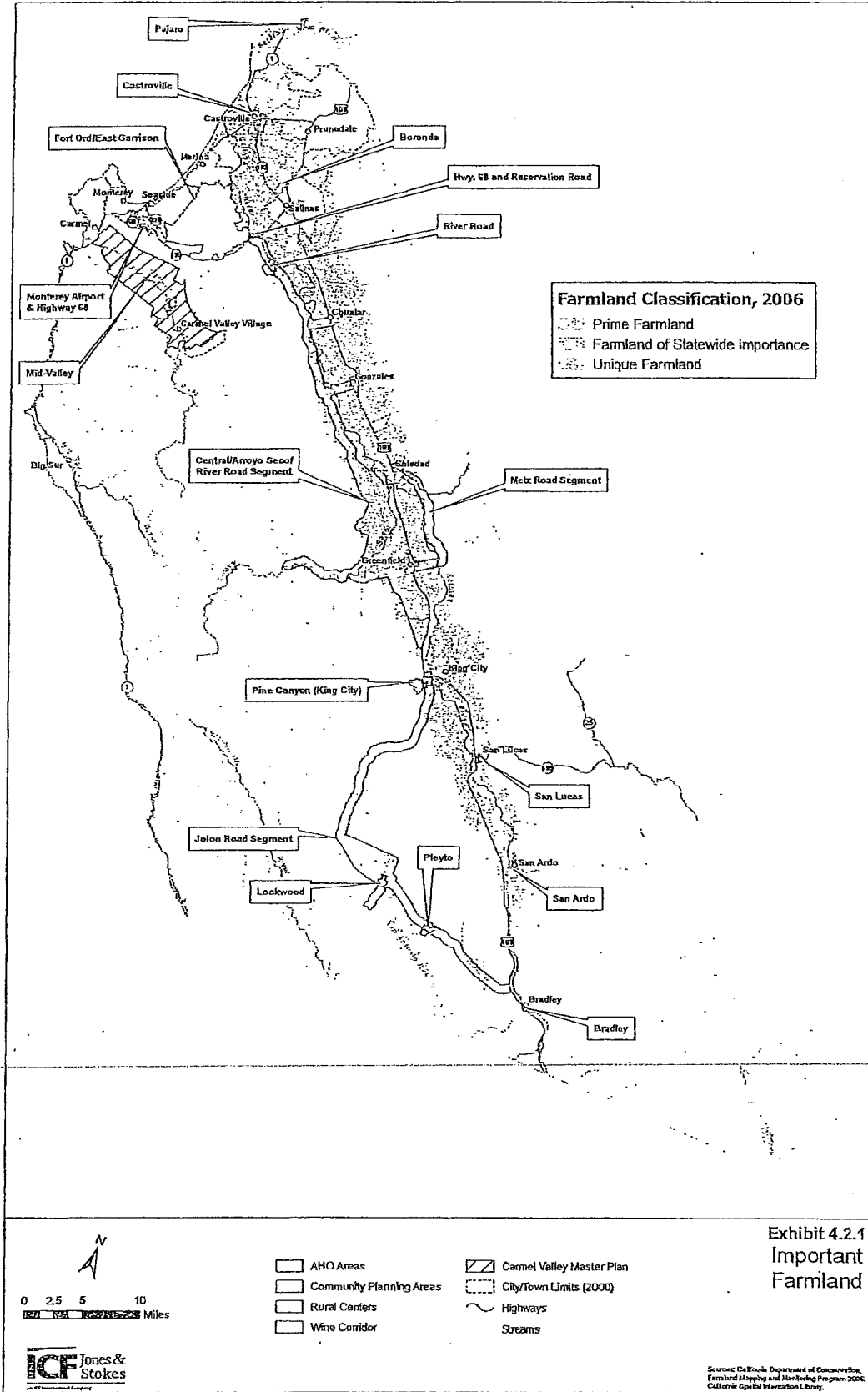


Exhibit C

1 Timothy J. Morgan, Esq. SBN 57847  
121 Jewell Street  
2 Santa Cruz, CA 95050  
(831) 429-9841

3 Pamela H. Silkwood, Esq. SBN 232333  
4 Mark A. Blum, Esq. SBN 124316  
HORAN, LLOYD LAW OFFICES  
5 499 Van Buren Street  
P. O. Box 3350  
6 Monterey, CA 93942-3350  
(831) 373-4131

7 Attorneys for Petitioners and Plaintiffs  
8

9 NOTICE OF INTENT TO FILE CEQA PETITION

10 To COUNTY OF MONTEREY:

11 PLEASE TAKE NOTICE, under Public Resources Code section 21167.5, that  
12 Petitioners and Plaintiffs SALINAS VALLEY WATER COALITION and MONTEREY  
13 COUNTY FARM BUREAU, intend to file a petition under the provisions of the California  
14 Environmental Quality Act (California Public Resources Code Section 21000, *et seq.*)  
15 against Respondents and Defendants COUNTY OF MONTEREY and DOES 1. through 99,  
16 challenging Respondent COUNTY OF MONTEREY's adoption of an update of the  
17 Monterey County General Plan and the certification of the General Plan Environmental  
18 Impact Report. A Notice of Determination was posted by the Monterey County Recorder's  
19 Office on October 27, 2010.  
20

21 Dated: November 24, 2010

HORAN, LLOYD LAW OFFICES

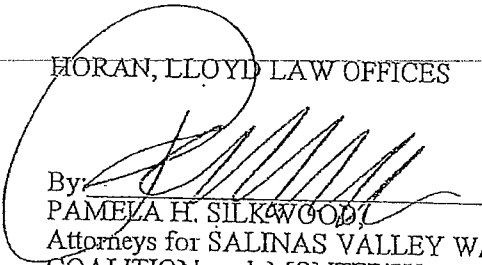
22  
23 By   
24 PAMELA H. SILKWOOD  
25 Attorneys for SALINAS VALLEY WATER  
COALITION and MONTEREY COUNTY  
26 FARM BUREAU  
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Exhibit D-1

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PROOF OF SERVICE

I certify and declare as follows:

I am over the age of 18, and not a party to this action. My business address is Horan, Lloyd Law Offices, 499 Van Buren Street, Monterey, California 93940, which is located in Monterey County where the mailing described below took place.

I am familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On November 24, 2010, the following document:

NOTICE OF INTENT TO FILE CEQA PETITION

was placed for deposit in the United States Postal Service in a sealed envelope, with postage fully paid to:

CLERK TO THE BOARD  
Monterey County Board of Supervisors  
168 West Alisal Street  
Salinas, California 93901

I certify and declare under penalty of perjury that the foregoing is true and correct.

Dated: November 24, 2010

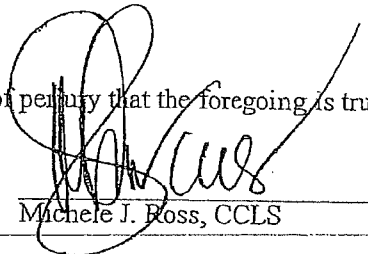
  
Michele J. Ross, CCLS

Exhibit D-2