

Attachment H

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1 460.21.05.11.SECONDAMENDEDWRITOFMANDATE
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14 Attorneys for Petitioner

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 7/01/2021
By Deputy: Cummings, Lorielle

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF MONTEREY**

17 Meyer Community Group
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Petitioner,

v.

County of Monterey, Monterey County
Board of Supervisors

Respondents.

Harper Canyon Realty, LLC., Does 1-50

Real Parties in Interest

Case No. M 131913

~~PROPOSED~~ SECOND AMENDED
PEREMPTORY WRIT OF
MANDATE

HONORABLE THOMAS W. WILLS

DEPT. 8

TRIAL DATE: MAY 3, 2018
COURT OF APPEAL OPINION
MARCH 29, 2021

TO RESPONDENTS COUNTY OF MONTEREY AND MONTEREY COUNTY BOARD
OF SUPERVISORS AND REAL PARTY IN INTEREST HARPER CANYON REALTY,
L.L.C.:

1 Second Amended Judgment having been entered in this action ordering that a peremptory
2 writ of mandate be granted in part and denied in part from this Court,

- 3 1. IT IS ORDERED that, within sixty (60) days of service of this writ, Respondents set
4 aside the portions of Resolution No. 15-084 certifying the Environmental Impact
5 Report (“EIR”) for the Harper Canyon (Encina Hills) Subdivision Project (the
6 “Project”) as to project wildlife corridor issues only and reconsider the non-CEQA
7 approvals in Resolution 15-084 (i.e., the Monterey County Board of Supervisors
8 [“Board”] findings, approval of the Combined Development Permit and any of its
9 subparts, and the adoption of the Mitigation Monitoring and Reporting Plan) for the
10 Project and set them aside only to the extent that they are dependent on project
11 wildlife corridor issues, consistent with the Sixth District Court of Appeal opinion
12 issued on March 29, 2021 in Case Number H046932 (the “Opinion”).
- 13 2. IT IS FURTHER ORDERED that Respondents and Real Party in Interest, its
14 employees, agents, contractors, heirs, successors, and representatives are further
15 ordered to suspend any and all activities related to the Project excepting only the
16 preparation of additional environmental documentation or other actions to comply
17 with the terms of this Writ, so long as they do not result in any change to the physical
18 environment, until Respondents have reconsidered its decisions and brought them
19 into compliance with the requirements of the California Environmental Quality Act
20 (“CEQA”), as more specifically described below, and ordered pursuant to the
21 Judgment, and the Court has accepted the return to this Writ. The Board is ordered
22 not to take any further action to approve the Project without the preparation,
23 circulation and consideration under CEQA of a legally adequate EIR with regard to
24 the wildlife corridor issues discussed in the Opinion.
- 25 3. IT IS FURTHER ORDERED that before approving revisions to the Combined
26 Development Permit, or issuing a new Combined Development Permit for the
27 Project, that the County comply with CEQA by the preparation, circulation and
28

1 consideration under CEQA of a legally adequate EIR with regard to the wildlife
2 corridor issues discussed in the Opinion, by recirculating the revised portions of the
3 EIR for public comment and response, by making revisions to the findings as may be
4 required by the revised EIR, and by making revisions to the Mitigation Monitoring
5 and Reporting Plan as may be required by the revised EIR, all as set forth in the
6 Opinion. The Board is ordered not to take any further action to approve the Project
7 without the preparation, circulation and consideration under CEQA of a legally
8 adequate EIR with regard to the wildlife corridor issues discussed in the Opinion.

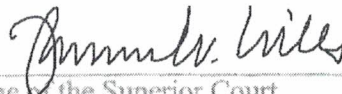
9 4. IT IS FURTHER ORDERED that Respondents make and file a return to this writ
10 within sixty (60) days of taking such action, setting forth what it has done to comply.
11 This Court will retain jurisdiction over Respondents' proceeding by way of a return to
12 this peremptory writ of mandate until the Court has determined that Respondents
13 have complied with CEQA.

14 5. Nothing in this Writ shall be construed to limit or control the discretion legally
15 vested in Respondents.

16 LET THE FOREGOING WRIT ISSUE

17
18 Parties are reminded this matter is set for hearing 7/27/21 at 9 a.m. in Dept. 15.
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20

21 Dated: 7/1/21



22 Judge of the Superior Court
23 **Thomas W. Wills**

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25 Approved as to form:

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27 Date: May 13, 2021


28 OFFICE OF THE COUNTY COUNSEL
COUNTY OF MONTEREY

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By: Kelly Donlon
Deputy County Counsel

Date: May 13, 2021

RUTAN AND TUCKER, LLP



By: Matthew D. Francois
Attorneys for Real Party Harper
Canyon Realty, LLC

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By: Kelly Donlon
Deputy County Counsel

Date: May 13, 2021

RUTAN AND TUCKER, LLP


By: Matthew D. Francois
Attorneys for Real Party Harper
Canyon Realty, LLC

1 **PROOF OF SERVICE**

2 I am employed in the County of Monterey; My business address is 27880 Dorris Drive,
3 Suite 110, Carmel, California 93923, P.O. Box 1021, Carmel Valley, California 93924. I am
4 over the age of eighteen years and not a party to the foregoing action.

5 On May 28, 2021, I served the within documents: Second Amended Judgment Granting
6 Peremptory Writ of Mandate and Proposed Second Amended Peremptory Writ of Mandate
7 X by transmitting via e-mail the document(s) listed above to the e-mail address(es)
8 set forth below on this date before 5:00 p.m.

8 Matthew Francois
9 Rutan & Tucker, LLP
10 Five Palo Alto Square
11 3000 El Camino Real, Suite 200
12 Palo Alto, CA 94306-9814
13 francois@rutan.com
14 For Real Party In Interest

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donlonk@co.monterey.ca.us

For Respondents

14 John Farrow
15 M.R. Wolfe and Associates
16 555 Sutter Street, Suite 405
17 San Francisco, CA. 94102
18 jfarrow@mrwolfeassociates.com

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

20 Executed on May 28, 2021 Carmel Valley, California.

21
22
23 /S/
24 Richard H. Rosenthal
25 _____
26 Richard H. Rosenthal
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PROOF OF SERVICE