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11

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

13 **IN AND FOR THE COUNTY OF KERN**

14 CENTER FOR BIOLOGICAL DIVERSITY,) Case No.
WISHTOYO FOUNDATION,)
15 TRICOUNTY WATCHDOGS, and)
CENTER ON RACE, POVERTY & THE)
16 ENVIRONMENT,) **PETITION FOR WRIT OF MANDATE**
17)
Petitioners,)
18) [CCP § 1094.5 (§ 1085); Public Resources
vs.) Code § 21000 et seq. (California
19) Environmental Quality Act)]
KERN COUNTY and)
20 KERN COUNTY BOARD OF SUPERVISORS)
21)
Respondents,)
22)
23)
TEJON MOUNTAIN VILLAGE, LLC,)
24 TEJON RANCH CO.,)
and DOES 1-30,)
25)
Real Parties in Interest.)
26)
27)

Petition for Writ of Mandate

1 *(caption continued from first page)*

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26 and TRICOUNTY WATCHDOGS
27

1 **INTRODUCTION**

2 1. This action challenges the October 5, 2009 decision of Kern County and the
3 Kern County Board of Supervisors (“Respondents”) to approve the Tejon Mountain Village
4 Specific Plan (“Tejon Mountain Village”, “TMV”, and “Project”) and certify the
5 Environmental Impact Report (“EIR”) for the Project. Respondents’ approval was in
6 violation of the California Environmental Quality Act (“CEQA”), Public Resources Code §
7 21000 et seq., and the CEQA Guidelines, title 14 California Code of Regulations, § 15000 *et*
8 *seq.*

9 2. Tejon Mountain Village is a massive luxury resort project in the Tehachapi
10 Mountains on the southern edge of Kern County, to the east of Interstate 5. The Project would
11 have numerous environmental impacts that were not addressed or were insufficiently
12 addressed in the EIR. These impacts include harm to regional air quality, contributions to
13 global warming, harm to essential and critical habitat for the endangered California condor,
14 harm to other threatened and endangered species and their habitat, harm to protected cultural
15 resources, increased traffic, increased risk of wildfires and flooding, and impacts to water
16 quality. The EIR also fails to adequately identify a sufficient water supply for the project,
17 fails to adequately describe the Project’s impacts on regional water supplies, and improperly
18 excludes Castac Lake in its analysis.

19 3. Petitioners and Plaintiffs Center for Biological Diversity, Wishtoyo Foundation,
20 TriCounty Watchdogs, and Center on Race, Poverty & the Environment (“Petitioners”)
21 request that this Court vacate and set aside the Project and related approvals and the
22 certification of the EIR because Respondents failed to comply with CEQA and applicable
23 State Planning and Zoning Laws.

24 **JURISDICTION AND VENUE**

25 4. This Court has jurisdiction over this action pursuant to California Code of Civil
26 Procedure sections 1085 and 1094.5 and Public Resources Code sections 21168 and 21168.5.
27 This Court has the authority to issue a writ of mandate directing Respondents to vacate and set

1 aside its approval of the Project and certification of the EIR for the Project under the Code of
2 Civil Procedure sections 1085 and 1094.5.

3 5. Venue for this action properly lies in the Kern County Superior Court because
4 Respondents and the Project are located in Kern County.

5 **PARTIES**

6 6. Petitioner CENTER FOR BIOLOGICAL DIVERSITY is a non-profit, public
7 interest corporation with over 40,000 members and offices in San Francisco, Los Angeles, and
8 Joshua Tree, California, as well as offices in Arizona, New Mexico, Oregon, Vermont, and
9 Washington, D.C. The Center for Biological Diversity and its members are dedicated to
10 protecting diverse native species and habitats through science, policy, education, and
11 environmental law. Recognizing that global warming from society's emission of greenhouse
12 gases is one of the foremost threats to the Center for Biological Diversity's members and their
13 recreational, spiritual, vocational, educational, aesthetic and other interests in the earth's
14 environment, biodiversity, and public health, the Center for Biological Diversity works to
15 reduce United States greenhouse gas emissions and promote sound conservation strategies in
16 order to protect these interests. Center for Biological Diversity members reside and own
17 property in Kern and neighboring counties and use areas surrounding the Project site for
18 recreational, wildlife viewing, scientific, and educational purposes.

19 7. Petitioner WISHTOYO FOUNDATION is a nonprofit organization in Ventura
20 County with over 700 members composed of Chumash Native Americans, Ventura County
21 residents, and Los Angeles County residents. Wishtoyo Foundation's mission is to preserve,
22 protect, and restore Chumash culture, the culture and history of coastal communities, cultural
23 resources, and the environment. The Wishtoyo Foundation shares traditional Chumash
24 beliefs, cultural practices, songs, dances, stories, and values with the public to instill
25 environmental awareness and responsibility for sustaining the health of our land, air, and
26 water for the benefit of future generations. The Chumash People, including members of
27 Wishtoyo Foundation, have a long history of interaction with the California condor for a

1 variety of purposes, including religious and ceremonial ones. The Chumash People and
2 members of the Wishtoyo Foundation also share a sacred and cultural relationship with the
3 California Condor that is depicted in Chumash Peoples’ ancient cave paintings and told in
4 Chumash stories which have been passed down from generation to generation for over 10,000
5 years. The Chumash People, including ancestors of members of the Wishtoyo Foundation,
6 and the People of the Kitanemuk and Kaiwasu Yowlumne tribes, resided in villages,
7 conducted ceremonies at sacred sites, and or buried their dead in and around the proposed
8 Tejon Ranch project site for thousands of years. The Chumash People and members of the
9 Wishtoyo Foundation have a strong cultural interest in the recovery of the California condor
10 and the protection of Tejon Ranch’s cultural and environmental resources.

11 8. Petitioner TRICOUNTY WATCHDOGS, a non-profit public interest
12 corporation, seeks to protect the natural and cultural resources of the region known as the
13 “Mountain Communities” of Kern, Los Angeles, and Ventura Counties, and to promote
14 ecotourism and responsible growth in the area. Most Tri-County Watchdogs members live in
15 the Mountain Communities, in the immediate vicinity of Tejon Ranch and the Project site.
16 Tri-County Watchdogs and its members are concerned about the region’s water supply, its air
17 pollution, the cultural and historical heritage of the region, economic opportunities, the
18 neglect of the area by the counties and the state, and about approaching destructive sprawl.

19 9. Petitioner CENTER ON RACE, POVERTY & THE ENVIRONMENT is a non-
20 profit environmental-justice organization with offices in San Francisco and Delano,
21 California. The Center on Race, Poverty and the Environment provides legal and technical
22 assistance to grassroots groups in low-income communities and communities of color fighting
23 environmental hazards. The Center on Race, Poverty and the Environment seeks to empower
24 individuals and communities while addressing environmental hazards facing those individuals
25 and communities. For the past 10 years, the Center on Race, Poverty & the Environment has
26 had an office in Kern County and worked with Kern County community groups to protect
27 their public health by reducing their exposure to air pollutants and by participating in land use

1 decisions that affect their communities.

2 10. Petitioners and their members would be directly, adversely and irreparably
3 affected by the Project and its components, as described herein, until and unless this Court
4 provides the relief prayed for in this petition.

5 11. Respondent KERN COUNTY (the “County”) is a local governmental agency
6 and political subdivision of the State of California charged with the authority to regulate and
7 administer land use activities within its boundaries, subject at all times to the obligations and
8 limitations of all applicable state, federal, and other laws, including CEQA and the CEQA
9 Guidelines and Planning and Zoning Laws. The County also has the authority to legislate
10 changes to land use and policy within its jurisdiction. The County is the lead agency under
11 CEQA for the preparation of the EIR and for the approval of the Project.

12 12. Respondent KERN COUNTY BOARD OF SUPERVISORS is the legislative
13 body for Kern County.

14 13. Real Party in Interest TEJON MOUNTAIN VILLAGE, LLC (“Applicant”) is the
15 applicant for the entitlements that constitute the Project. Based on the Applicant’s status as
16 the sole identified applicant and developer for the Project, and on Petitioner’s information and
17 belief, Applicant adequately represents the interests of any and all other non-joined parties in
18 the Project.

19 14. Real Party in Interest TEJON RANCH CO. is the owner of the real property
20 known as Tejon Ranch, including the property on which the Project would be located.

21 15. Petitioners are currently unaware of the true names and capacities of Real Parties
22 in Interest, Does 1 through 30, inclusive. Does 1 through 30, inclusive, are persons or entities
23 presently unknown to Petitioners who claim some legal or equitable interest in the Project that
24 is the subject of this action. Petitioners will amend this petition to show the true names and
25 capacities of Does 1 through 30 when such names and capacities become known.

26 **GENERAL ALLEGATIONS**

27 **Project Background**

1 16. Tejon Mountain Village is a proposed development located on Tejon Ranch, the
2 largest single privately-owned property in California at approximately 270,000 acres. The
3 TMV site is located on the west-central portion of Tejon Ranch, just east of Interstate 5 in the
4 Tehachapi Mountains. The Project site consists of approximately 26,417 acres of mixed
5 terrain, including steep and rugged hillsides and ridgelines, oak woodlands, and savannah
6 grasslands. It is currently undeveloped, being used primarily as open ranchland but also as
7 hunting grounds and film production sites. The proposed Project would consist of 3,450
8 residences, up to 160,000 square feet of commercial development, two golf courses, riding
9 and hiking trails, two helipads, community centers, and various assorted utility and
10 infrastructure facilities. The Project would be primarily a low-density development, scattering
11 approximately 7,867 acres of developed land throughout the 26,417 acre Specific Plan site.
12 The remaining 21,335 acres would remain ranchlands and various degrees of open space.

13 17. Castac Lake is a water body east of Interstate 5 that is entirely surrounded by the
14 Project. Described in the EIR as a “natural lake” that historically was a “saline sag pond,”
15 there is currently little that is natural about Castac Lake. The Tejon Ranch Co. maintains
16 Castac Lake at an artificially high water level with groundwater pumped from Basin 5-29,
17 which is also used for drinking water. The Project includes a multi-use trail around Castac
18 Lake and relies on the lake as a source of water for fire suppression. At the Applicant’s
19 request, Castac Lake and unspecified “facilities directly adjacent to Castac Lake” were
20 removed from the Project subsequent to the Notice of Preparation (“NOP”) for the Project and
21 prior to circulation of the Draft EIR.

22 **Water Supply and Water Quality**

23 18. The Project has no local surface water supply and sits on top of a severely
24 depleted and over-committed groundwater aquifer, from which Tejon Ranch Co. already
25 draws over 1500 acre-feet per year (“AFY”) just to maintain the present level of Castac Lake.

26 19. Rather than reflecting the confines of the local water supply, TMV is possible
27 only with copious supplies of imported water.

1 20. With no reliable local water source, TMV instead relies entirely on the unreliable
2 and shrinking deliveries of State Water Project (“SWP”) water. The EIR minimizes
3 discussion of the low historical reliability and erratic, interruptible nature of this conveyance,
4 and ignores the well-established principle that SWP water may not be used to create an
5 economy that would become dependent on its supply.

6 21. Water for TMV will be supplied exclusively by Tejon-Castac Water District
7 (“TCWD”). TCWD is controlled by Tejon Ranch Co. and shares a mailing address with
8 Tejon Ranch Co.’s headquarters. All TCWD board members are financially tied to Tejon
9 Ranch Co. TCWD lacks a website and does not have a regular meeting schedule.

10 22. In preparation for the EIR, the Kern County Planning Department requested and
11 received a Water Supply Assessment (“WSA”) from TCWD in August, 2008. The WSA is
12 included in the EIR as Appendix N.

13 23. TCWD is also required by law to create and update an Urban Water
14 Management Plan (“UWMP”), the latest revision of which was in 2005 (another revision is
15 due in 2010). However, the Kern County Planning Department states that the 2005 UWMP
16 was not used in creation of the WSA or EIR, thereby leaving out a critical publicly-reviewed
17 source document that contradicts information in the EIR and WSA.

18 24. The EIR and WSA estimate TMV’s total water demand at 2,900 AFY,
19 representing 72% of the total 4,002 AFY yearly demand for water from Tejon Castac Water
20 District. This number in the EIR assumes sharply-reduced water demand for landscaping and
21 other outdoor uses when compared to typical developments as measured by DWR.

22 25. The EIR and WSA claim three “sources” for water to supply Tejon Mountain
23 Village: SWP water, water bank water (primarily from the Kern Water Bank), and recycled
24 water. Neither the EIR nor the WSA contain the contracts demonstrating delivery of any of
25 the three “sources” of the water. The treatment facility required to provide recycled water has
26 yet to be funded or constructed.

1 26. TCWD’s 2005 UWMP explains that TCWD’s water from the SWP is contracted
2 from Kern County Water Agency through (1) a 1965 Zone of Benefit claim, (2) a 1995
3 transfer from Wheeler-Ridge Maricopa Water Storage District (“WRMWSA”), and (3) a
4 transfer from Belridge Water Storage District. This information is absent from the EIR and
5 WSA.

6 27. Tejon Ranch Co. is also a controlling shareholder in WRMWSA; both
7 WRMWSA and TCWD share directors and were at one time headed by the same Tejon Ranch
8 Co. employee, Dennis Atkinson.

9 28. Through these three contracts, TCWD claims a SWP delivery of 3,325 AFY in
10 an “average” year.

11 29. On August 20, 2009, Kern County Planning Department, responding to a Public
12 Records Act request, publicly released some, but not all, of TCWD’s water supply contracts,
13 which were added to the EIR supplemental documentation just prior to the Kern County
14 Planning Department’s hearing on the EIR.

15 30. The documents provided by this Public Records Act request include:

16 a. May 1993, “M & I Contract: Contract between Kern County Water
17 Agency and Tejon-Castac Water District for a Water Supply”;

18 b. November 14, 1995, “Amendment No. 1 to the Water Supply Contract
19 between Kern County Water Agency and Tejon-Castac Water District”;

20 c. November 14, 1995, “Agricultural Contract: Contract between Kern
21 County Water Agency and Tejon-Castac Water District for A Water Supply” with
22 “Agricultural Contract: Amendment No. 1 to the Water Supply Contract Between Kern
23 County Water Agency and Tejon-Castac Water District”, also dated November 14, 1995,
24 executing the “Monterey Amendment” also attached.

25 d. December 8 and 13, 1995: “Amendment 21” and “Amendment 24” to
26 the “Contract between Department of Water Resources and Kern County Water Agency for a
27 Supply of Water”.

1 31. Both the Agricultural Water Contract and the M & I Contract feature
2 amendments based on the Monterey Amendment. The 1994 Monterey Agreement and
3 subsequent Monterey Amendment implemented major changes to the long-term contracts
4 between SWP Contractors and DWR. The Monterey Amendment includes authorization of a
5 one-time transfer of water from agricultural districts to urban districts. The WRMWS
6 agricultural water transfer to TCWD is a part of the agricultural-urban water transfer
7 authorized by the Monterey Amendment, although the EIR makes no mention of this.

8 32. The EIR for the Monterey Amendment was successfully challenged by
9 environmental organizations, resulting in a 2000 appellate decision. The Monterey
10 Amendment contains a clause that a timely legal challenge to the Amendment shall delay
11 implementation of the amendment until the challenge is resolved. Yet nearly a decade later,
12 the revised EIR that could resolve the challenge has yet to be published by DWR. Until the
13 Monterey Amendment EIR is finalized and the Amendment itself is free of legal challenge,
14 the status of the Monterey Amendment remains in limbo.

15 33. The TCWD Agricultural Water Contract and the Monterey Amendment to that
16 contract were signed the very same day, and the Monterey Amendment is claimed as the
17 reason for removal of the water's agricultural purpose restriction.

18 34. Although a "Master Contract" is repeatedly referred to in the supplied documents
19 as the basis for these contracts, no such contract was included in the documents.

20 35. The TCWD agricultural water contract made public via the Public Records Act
21 request (but wholly absent from the EIR and WSA) indicates that it is this agricultural water
22 that was being stored by TCWD in the Kern Water Bank and Pioneer Project. The contracts
23 indicate that once the agricultural water is required for use by TMV, this water will no longer
24 be diverted to supply Kern Water Bank.

25 36. The EIR and WSA fail to reveal that Article 21 surplus (interruptible) water is
26 used as a source for the project. According to the most recent DWR reports, surplus water
27

1 will be severely curtailed in the future, making this type of supplemental delivery unavailable
2 as a source of replenishment.

3 37. The Sacramento/San Joaquin Delta (“Delta”) continues to sustain major negative
4 environmental impacts resulting from water diversions, including more than 20,000 acre-feet
5 of Delta water already diverted and currently stored by TCWD in the Kern Water Bank
6 (“KWB”) for TMV development. TMV’s total dependence on future SWP deliveries only
7 exacerbates this impact by making it permanent. Yet no discussion of such impact is included
8 in the EIR.

9 38. Castac Lake, a formerly dry saline lakebed, is now artificially filled and
10 maintained by Tejon Ranch Co. with groundwater withdrawals of at least 1500 AFY. This
11 impact on groundwater is never adequately disclosed, let alone analyzed, in the EIR. The lake
12 was filled by Tejon Ranch Co. and features prominently in literature promoting the mountain
13 resort. The lake’s use of groundwater is not addressed in the EIR. Major water quality
14 problems with Castac Lake have also been identified.

15 **Climate Change and Greenhouse Gas Emissions**

16 39. California is not only extremely vulnerable to the impacts of global warming, but
17 is also responsible for a significant portion of the U.S. and global emissions of greenhouse
18 gases. Because most greenhouse gas emissions remain in the atmosphere for decades or
19 centuries, the quality of life our children and grandchildren experience depends on if and how
20 rapidly California and the rest of the world reduce these emissions. Aggressive reductions in
21 emissions can avoid drastic global warming impacts predicted for the end of the century,
22 including temperature rises between 8 and 10.5 °F, 90% loss of the Sierra snowpack, 22-30
23 inches of sea level rise, and 4-6 times as many heat-related deaths in major urban centers.

24 40. Despite its claims of “smart-growth” the Tejon Mountain Village represents a
25 throwback to the auto-dependent sprawl typical of the late Twentieth Century that has caused
26 the United States and California to be one of the largest greenhouse gas polluters on the
27 planet. The Project itself would result in over 208,000 metric tons of CO2 equivalent

1 produced per year creating a massive carbon footprint in an undeveloped area away from
2 existing services.

3 41. California has set emission reduction targets in order to combat global warming
4 under the California Global Warming Solutions Act of 2006 (“AB 32”) and Executive Order
5 S-3-05. AB 32 requires that California reduce its emissions to 1990 levels by 2020.
6 Executive Order S-3-05 sets a target to reduce California’s greenhouse gas emissions to 80%
7 below 1990 levels by 2050. At the time they were passed, the emission reduction targets set
8 by AB 32 and Executive Order S-3-05 roughly corresponded to the level of emission
9 reductions scientists deemed necessary to avoid dangerous climate change. However, based
10 on increased study and alarming recent climate change observations, there is increasing
11 scientific consensus that deeper reductions are necessary to limit atmospheric concentrations
12 of greenhouse gases to a level that would avoid devastating impacts.

13 42. Senate Bill 97 (2007) confirmed that the analysis of the potentially significant
14 impacts to global warming from a project’s generation of greenhouse gas emissions is
15 required under CEQA. To help provide guidance to lead agencies, the California Air
16 Pollution Control Officer’s Association (“CAPCOA”)—an association of air pollution control
17 officers representing air quality agencies throughout California—analyzed various approaches
18 to determining the significance of greenhouse gas impacts under CEQA. Under CAPCOA’s
19 analysis, the only two thresholds that were both highly effective at reducing greenhouse gas
20 emissions and highly compliant with AB 32 and Executive Order S-3-05 emission reduction
21 targets were a threshold of zero or a 900-ton per-year CO2 equivalent threshold, which is far
22 below the emissions from this Project.

23 **Air Quality**

24 43. The Project sits at the intersection of three of California’s—indeed the
25 nation’s—most polluted air basins: the San Joaquin Valley Air Basin, South Coast Air Basin,
26 and Mojave Desert Air Basin. All three air basins have continually failed to attain the Clean
27 Air Act’s health-based air quality standards requirements for several pollutants, including

1 low-level ozone and fine particulate matter (PM2.5). The air basin's nonattainment has been
2 persistent for decades, with the San Joaquin Valley and the South Coast both designated as
3 extreme—the worst classification—for low-level ozone. The San Joaquin Valley logs the
4 most days of any air basin in the United States when air quality exceeds the 8-hour ozone
5 National Ambient Air Quality Standard, with the South Coast following closely behind. The
6 EPA has documented that the San Joaquin, South Coast, and Mojave Air Basins have the
7 highest recorded 8-hour ozone concentrations in the United States. For particulate matter of
8 2.5 microns or less, the San Joaquin Valley Air Basin has the nation's highest concentrations,
9 while the South Coast Air Basin has the third highest PM in the nation. According to the
10 American Lung Association's State of the Air: 2009 Report, Kern County is the most PM2.5
11 polluted county, and Bakersfield is the most PM2.5 polluted city, in the United States.

12 44. Ozone is a photochemical pollutant produced through the combination of
13 sunlight and ozone precursor substances such as reactive organic gases (also called volatile
14 organic compounds) and nitrogen oxides. Particulate matter with an aerodynamic diameter of
15 2.5 microns or less (PM2.5), on the other hand, consists of very small particles that are less
16 than 2.5 millionths of a meter in diameter and suspended directly in the air as a result of
17 combustion or dust or formed in the air through a reaction between precursor chemicals
18 ammonia, volatile organic compounds, sulfur oxides, and nitrogen oxides. The resulting
19 impacts to public health to local residents from such degraded air quality are severe. An
20 abbreviated list of acute and chronic health effects includes heart and lung disease, respiratory
21 illness, asthma, decreased immune function, and increased mortality.

22 45. The Project would continue to worsen the negative air quality in the three
23 adjacent air basins due, in part, to the massive increase in automobile and truck traffic. The
24 EIR admits that the Project would exceed significance thresholds for several criteria pollutants
25 under the Clean Air Act, including ozone precursors (reactive organic gases and nitrogen
26 oxides) and particulate matter.

27 **California Condor**

1 46. The Project site has long been home to the California condor, a state and federal
2 endangered species and a state fully-protected species. The last wild condors were captured
3 as part of a captive-breeding program on Tejon Ranch in the 1980's, after the wild population
4 declined to 22 birds. It is likely that the lack of development on Tejon Ranch was a major
5 factor in the species' continued existence at that point.

6 47. Condors, including captive-bred birds and older wild-born birds, were
7 reintroduced to the wild in 1991. The reintroduction effort has had some success, with
8 condors currently occupying much of their historic habitat in California and populations being
9 reintroduced to Arizona and Baja California, Mexico.

10 48. Despite the most expensive species conservation effort in U.S. history, however,
11 condors still face significant threats and their future in the wild is by no means certain. Up to
12 now the most significant mortality factor to the species has been lead poisoning caused
13 primarily by the birds' ingestion of hunter-shot ammunition. But with the passage of the
14 Ridley-Tree Condor Preservation Act (AB 821) in 2007, which banned the use of lead
15 ammunition in all condor habitat in California, as well as other efforts to eliminate hunters'
16 use of lead ammunition, lead poisoning is expected to subside as the primary threat to the
17 species. In its place, habitat loss is expected to play a far more significant role in the condor's
18 recovery, especially as the number of condors in the wild increases.

19 49. Much of Tejon Ranch, including 72% of the Project site, is designated by the
20 U.S. Fish and Wildlife Service ("FWS") as "critical habitat" for the condor, due to its prime
21 foraging habitat qualities (arguably the best and most important condor foraging grounds in
22 the world).

23 50. Although private parties are not directly prohibited under the Endangered
24 Species Act ("ESA") from taking actions that may harm designated critical habitat, federal
25 agencies are prohibited from taking any action, including approving or issuing federal permits
26 to private parties, that would "adversely impact" designated critical habitat.

27 51. In 1997, Tejon Ranch Co. sued FWS over the reintroduction effort, seeking to

1 have the reintroduction stopped or the condors reclassified under the ESA as an “experimental
2 population.” The lawsuit was stayed pending a settlement agreement with FWS in which
3 FWS agreed to help Tejon Ranch Co. prepare a Habitat Conservation Plan and an Incidental
4 Take Permit for condors. The draft of that plan was released earlier in 2009 and is currently
5 under review by FWS. Tejon Ranch Co.’s lawsuit remains stayed today.

6 52. The development of TMV would represent one of the largest losses of condor
7 habitat in the modern history of the species and would be the first development ever approved
8 or built in designated condor critical habitat.

9 53. A group that includes some of the most eminent condor biologists in the field,
10 including former and current participants in the California condor conservation program,
11 stated the importance of TMV and its critical habitat as such: “...from our experience on
12 TMV lands and other Tejon lands, and from examination of other available records on use of
13 these lands by condors, TMV lands are indeed some of the most important areas for condors
14 within Critical Habitat and...conversion of these lands to residential use will have negative
15 effects on the viability and value of Critical Habitat...”.

16 54. Development of TMV would constitute “adverse modification” of critical habitat
17 under the ESA.

18 55. Development of TMV would destroy essential and critical condor foraging
19 habitat.

20 56. Development of TMV would disturb, and potentially destroy, an important
21 linkage between the major arms of historical condor habitat (the Coast Ranges and the
22 southern Sierra Nevada Mountains).

23 **Other Biological Resources**

24 57. Tejon Ranch encompasses a remarkable intersection of strikingly different
25 landscapes, including portions of the Central Valley, the Mojave Desert, the Sierra Nevada
26 Mountains, the Tehachapi Mountains, and the Transverse Ranges. The Project site is located
27 at the heart of this vital crossroads linking these biogeographical regions. The TMV site is

1 situated primarily in upland portions of Tejon Ranch within the Tehachapi Mountains,
2 covering an area of exceptional biological diversity, including large expanses of oak
3 woodlands, grasslands, scrub, and chaparral vegetation communities, as well as smaller but
4 significant quantities of riparian and wetland habitats.

5 58. These large and relatively intact native vegetation communities support a diverse
6 range of wildlife and plants, including numerous endangered, threatened, rare, and sensitive
7 species.

8 59. The EIR states that the Project's "development envelope" is approximately 7,867
9 acres, but the Project will adversely affect biological resources over an even larger area due to
10 fuel modification zones, fragmentation of habitat, and other indirect effects.

11 **Cultural Resources**

12 60. The lands now occupied by Tejon Ranch contain the ancestral homes of
13 numerous Native American tribes, including the Inland Chumash, Kaiawasu, and Kitanemuk
14 Yolumne. The descendants of these tribes retain strong cultural and religious attachment to
15 the lands, particularly those in and around Castac Lake and the TMV site.

16 61. For the region's Native Americans, the condor holds a very special place in the
17 universe, possessing great cultural and religious significance and being as highly regarded as
18 the eagle. It is one of the most important and irreplaceable cultural resources on Tejon Ranch
19 for the Native Americans.

20 62. In the 1850's, General Edward Fitzgerald Beale created the San Sebastian Indian
21 Reservation and forcibly moved local Indians off of their ancestral land and onto the
22 reservation. During the next decade, Beale assembled Tejon Ranch from the Mexican
23 rancherías containing those same sacred ancestral lands.

24 63. Dozens of villages are documented on these lands. Natives of the area lived in
25 long-established settlements in many of the canyons surrounding present-day Castac Lake,
26 and evidence of their settlements remain throughout the area. Generally speaking, Chumash
27 Indians lived in the vicinity of Kashtiq (now underwater because of Castac Lake expansion),

1 while the Kitanemuk and Kaiawasu Yowlumne tribes lived in the canyons east and north of
2 the lake. These ancestral canyons are the same that will be bulldozed and paved by the TMV
3 project.

4 64. General Beale forced all of these tribes to move to present-day Tejon Canyon,
5 which made it the last Indian settlement on the property. In the 1920's, Tejon Ranch was sued
6 for this forced removal of Kitanemuk, Yowlumne and Chumash, in a case that went all the
7 way to the U. S. Supreme Court. The Supreme Court never resolved this issue on its merits,
8 and many Native Americans still argue that the Tejon Ranch land legally belongs to them.

9 65. The TMV EIR contains minimal information regarding the Castac Lake
10 settlements, and denies that there is historical documentation of such sites. However, there
11 are numerous sources in the administrative record documenting their existence. The sources
12 include original depositions from Indians who were themselves moved from the canyons on
13 the west side of the Tejon Ranch property to the canyons to the east of the valley floor. The
14 villages, settlements and sacred burial sites in the Castac Lake area are likewise documented
15 in modern history and archaeology works, such as John Johnson's 1978 article, "The Trail to
16 Kashtiq".

17 66. As explained elsewhere, Tejon Ranch Co. artificially maintains Castac Lake and
18 expanded the artificial water body beyond its natural shoreline. The original road from
19 Highway 5/99 on the north shore of Castac Lake was put underwater due to the enlargement
20 of the lake. Since the Indian village of Kashtiq was on the north shore, it too is now
21 underwater.

22 67. The EIR claims that archaeologists and Native American monitors were
23 supervising the surveying and excavations of sensitive archeological sites. But it is
24 impossible to imagine that such monitors permitted the flooding of Kashtiq village. Likewise,
25 this supervision is called into question by a September 2001 excavation of a sacred burial site
26 near Castac Lake. If there was actual supervision, the excavation would not have happened.
27 At the moment a burial is encountered, all work should have stopped and the State of

1 California, Native American Heritage Commission and the Kern County Coroner should have
2 been notified immediately. According to the account in the record of the Most Likely
3 Descendant, the bones were in a pile, seemingly removed from a common pit, and not a single
4 funerary item was found among the bones. This discovery suggests that the “burial site” was
5 really a collection of bodies found by TRC elsewhere on the property and illegally moved. It
6 is possible that the bodies from the Kashtiq cemetery are buried in this pile.

7 **Traffic**

8 68. The EIR projects that the Project will add 9,000 vehicle trips to the Annual
9 Average Daily Traffic of Interstate 5 north of the Project and 14,000 vehicle trips to Interstate
10 5 south of the Project by the year 2030, making the Project responsible for 6% and 15% of all
11 traffic on Interstate 5 north and south, respectfully, of the Project. These figures almost
12 certainly understate the number of vehicle trips, however.

13 69. Interstate 5 is the single significant access to and from the Project site and is
14 already extremely burdened by northbound and southbound traffic, including very large
15 numbers of trucks.

16 70. There is no question that the Project would have significant consequences on
17 regional traffic, especially on Interstate 5. Cumulative traffic impacts are in fact considered
18 significant and unavoidable in the EIR. But the EIR still fails to adequately disclose and
19 analyze the Project’s impacts to traffic, grossly understating the increase in traffic that will be
20 caused by the Project.

21 71. In comparing TMV to “other mountain resorts used by Southern California
22 residents” the EIR actually predicts that the traffic impacts (in terms of greenhouse gasses)
23 will be lower, due to TMV’s closer proximity to population centers. But TMV’s close
24 proximity to Los Angeles suggests that traffic will be greater than that of other mountain
25 resorts.

26 **Hazards**

27 72. CEQA Guidelines § 15126.2(a) state that “[t]he EIR shall also analyze any

1 significant environmental effects the project might cause by bringing development and people
2 into the area affected. For example, an EIR on a subdivision astride an active fault line should
3 identify as a significant effect the seismic hazard to future occupants of the subdivision. The
4 subdivision would have the effect of attracting people to the location and exposing them to the
5 hazards found there.”

6 73. A proposed addition to the CEQA Guidelines would add the following language
7 to § 15126.2(a): “Similarly, the EIR should evaluate the impacts of locating development in
8 other areas susceptible to hazardous conditions (e.g., floodplains, coastlines, wildfire risk
9 areas) as identified in authoritative hazard maps, risk assessments or in land use plans
10 addressing such hazards areas.” Cal. Natural Resources Agency Notice of Proposed Action,
11 July 9, 2009.

12 74. TMV sits in the middle of one of the most active and dangerous fault regions in
13 the country. The two largest tectonic faults in California meet at TMV: the San Andreas
14 (which runs just adjacent to the Project site) and the Garlock (which runs directly through the
15 center for the Project site). They are joined by two smaller faults, Big Pine and White Wolfe.
16 The Garlock Fault has a slip rate estimated to be between 5 and 30 mm per year, while the
17 San Andreas’ rate is estimated to be between 30 and 60 mm per year.

18 75. Since 1950 there have been 23 large wildfires on the Project site or within ¼
19 mile of it. Despite admitting that “the risk of loss, injury, or death involving wildland fires
20 would be significant,” the EIR states that the “overall intensity of...fires [on TMV] is
21 expected to be relatively low and concludes that the risk is less than significant after
22 mitigation.

23 **Environmental Review and Approval**

24 76. The NOP for the Project was issued on September 30, 2005.

25 77. The Draft Environmental Impact Report (“DEIR”) was released on May 29,
26 2009. The DEIR totaled 13 binders each 5.5 inches thick and two binders each two inches
27 thick, as well as two large rolls of maps. The document totaled over 21,000 pages and stood

1 nearly six feet tall. Only three full paper copies were initially created, although one was later
2 made available to the local newspaper The Mountain Enterprise for public review. The
3 document was placed on Kern County's website (broken up into separate files, many of which
4 were 70 and 80 megabytes large and therefore extremely difficult to download) and
5 distributed by request on four cd-roms.

6 78. The Notice of Availability for the DEIR stated that the public comment period
7 would close on July 13, 2009, yet stated that a public hearing was scheduled before the Kern
8 County Planning Commission "to receive comments on the document" on August 13, 2009.

9 79. The DEIR concluded that Project impacts to aesthetics/light and glare, air quality
10 and climate change, biological resources (cumulative only), hazards related to the exposure of
11 people to wildlife, noise, population growth, and traffic (cumulative only) would remain
12 significant after all feasible mitigation measure were adopted.

13 80. The EIR determined that impacts to agricultural resources, air quality and
14 climate change, biological resources, cultural resources, geology and soils, hazards and
15 hazardous materials, hydrology and water quality, noise, public services, recreation, traffic,
16 and utilities and service systems were potentially significant but could be mitigated below a
17 level of significance. Despite substantial evidence to the contrary, the EIR found no other
18 impacts potentially significant.

19 81. Between June 10, 2009, and July 8, 2009, the Kern County Planning Department
20 received no less than 14 letters from individuals and organizations and over 55 petition
21 signatures requesting an extension of the DEIR comment period. Most of these requests were
22 based on the size of the DEIR and its related documents, the size and complexity of the
23 proposed project, and the apparently convenient timing of the release of the documents almost
24 simultaneously with the environmental review documents for the Tejon Ranch's proposed
25 HCP and the DEIR for the Frazier Park Estates project proposed for an area directly across
26 Interstate 5 from the TMV project site.

27 82. The Kern County Planning Department, by letter dated July 6, 2009, rejected

1 these requests for an extension, stating in boldface font that the “DEIR public review period
2 ends on July 13, 2009 at 5:00.” This statement was contradicted in the same letter, however,
3 by the statement that the Kern County Planning Department “will accept all comments on the
4 DEIR and project throughout the entire process until the close of the public hearing at the yet
5 to be scheduled Kern County Board of Supervisors public hearing. This process ensures that
6 comments will be considered and responses (both written and verbal) are provided through the
7 Planning Commission and Board of Supervisors hearings.”

8 83. Petitioners TriCounty Watchdogs and Center for Race, Poverty & the
9 Environment submitted extensive written comments on the DEIR dated July 13, 2009.

10 84. On July 29, 2009, the Kern County Planning Department recommended that the
11 Planning Commission’s public hearing on the DEIR be continued to September 10, 2009, to
12 “to provide staff more time for preparing Chapter 7-Response to Comments of the Final EIR.”

13 85. The Kern County Planning Department prepared and released a Final EIR
14 (“FEIR”) on or around late August, 2009. The FEIR consisted of the DEIR, and addendum to
15 the DEIR and staff report, and responses to submitted comments.

16 86. Petitioners Center for Biological Diversity and Wishtoyo Foundation submitted
17 extensive written comments on the DEIR by letter dated September 10, 2009.

18 87. The Final EIR made only minor changes to the text of the DEIR, and failed to
19 adequately address the concerns raised in submitted comments.

20 88. On September 10, 2009, the Kern County Planning Commission held a hearing
21 regarding the Project and recommended approval of the Project, by a vote of 3 in favor to 2
22 against, to the Kern County Board of Supervisors. On October 5, 2009, the Kern County
23 Board of Supervisors held a public hearing to consider the Project and voted to approve the
24 Project by a vote of 5 to 0.

25 89. The Notice of Determination for the Project was filed on October 13, 2009, with
26 the Kern County Clerk, who posted it on October 14, 2009.

27 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

1 economic, legal, social, technological, or other benefits of the Project. Respondents may
2 reach the latter conclusion and adopt a Statement of Overriding Considerations only if it finds
3 that there are no feasible mitigation measures or alternatives to avoid or substantially lessen
4 the remaining significant environmental effects of the Project.

5 **Failure to Adequately Disclose and Analyze the Project’s Impacts**

6 97. The EIR failed to address or inadequately addressed entire categories of
7 environmental impacts, including but not limited to the deficiencies enumerated below. As a
8 result, Respondents failed to proceed in the manner required by law and abused its discretion
9 by failing to fully disclose and analyze the Project’s environmental effects.

10 ***Water Supply and Quality***

11 98. A water supply assessment shall include “an identification of any existing water
12 supply entitlements, water rights, or water service contracts relevant to the identified water
13 supply for the proposed project, and a description of the quantities of water received in prior
14 years by the public water system...”. Cal. Water Code § 10910(d)(1).

15 99. “An identification of existing water supply entitlements, water rights, or water
16 service contracts held by the public water system... shall be demonstrated by providing
17 information related to all of the following:

- 18 a. Written contracts or other proof of entitlement to an identified water supply.
- 19 b. Copies of a capital outlay program for financing the delivery of a water
20 supply that has been adopted by the public water system.
- 21 c. Federal, state, and local permits for construction of necessary infrastructure
22 associated with delivering the water supply.
- 23 d. Any necessary regulatory approvals that are required in order to be able to
24 convey or deliver the water supply.” Cal. Water Code § 10910 (d)(2).

25 100. The EIR does not meet the informational requirements set forth in Cal. Water
26 Code § 10910, and contains insufficient information to permit the lead agency, the responsible
27 agencies and the public to determine whether a reliable long-term water supply exists for the

1 Project or to evaluate the pros and cons of supplying the amount of water that the project
2 requires.

3 101. The WSA is an informational document provided to assist decision-makers and
4 the public in determining adequacy of the water supply under CEQA. In this instance,
5 however, the WSA was essentially supplied by the developer. The EIR does not address the
6 lack of credibility of such a document, nor does it demonstrate that Respondents performed an
7 independent review of the Project’s water supply as required by CEQA.

8 102. The EIR fails to disclose and analyze the relationship between the Monterey
9 Amendment and TCWD’s water supply contracts. This failure includes, but is not limited to,
10 the failure to explain: how the Amendment is purportedly in effect despite its non-
11 implementation clause; whether and how the “agricultural purpose” restriction in the TCWD
12 Agricultural Water Contract was lifted by the Monterey Amendment, and how such water
13 could be used by TMV without the Monterey Amendment in effect; that the EIR for these
14 transfers is not yet final; and that a court’s rejection of the new Monterey EIR could require
15 the transfers to be reversed or reduced.

16 103. Neither the EIR nor the WSA contain contracts or other information regarding
17 any future replenishment of the water currently stored in the two water banks once draw-down
18 of those supplies by TMV commences. The agricultural supply contract indicates that the
19 water banks will not be replenished at the same level, if at all, once TMV is constructed,
20 meaning that this “supply” is anything but reliable—it is impermanent and ephemeral.

21 104. Neither the EIR nor the WSA explain how TMV’s total water demand can be
22 identical continuously between 2008 and 2028, even though TMV has yet to be built at all,
23 and will not be fully built-out for decades, nor do either the EIR or the WSA explain what will
24 happen to any water that is not used during this period (i.e., whether it will be banked for
25 future use, sold, or somehow otherwise used).

1 105. The EIR does not explain how an un-built recycled water facility can be
2 considered a “source” even though it is not built, not funded, will not be on-line at the project
3 outset, and any water from it must necessarily originate from the SWP.

4 106. The EIR and WSA cite water bank supplies that are contradictory and
5 unsupported by contracts or other documentation, and cite KWB supply figures that are more
6 than double of those cited in the 2005 UWMP. The EIR does not explain these discrepancies.

7 107. The EIR improperly considers water banks to be legitimate “sources” of new
8 municipal water supply. A storage facility is merely an extension of the entitlements from
9 another source, transferred to storage by the water bank customer, and does not constitute a
10 proper source.

11 108. If TCWD’s water bank storage is maintained or supplemented by SWP Article
12 21 “surplus” or “interruptible” water, then this source must be acknowledged in the EIR and
13 WSA, and reliance on surplus water as a primary source of water must be assessed as an
14 impact, along with the legal implications of using surplus water for permanent development.

15 109. The EIR and WSA ignore the artificial maintenance of Castac Lake as a major
16 drain on the groundwater aquifer and the necessity to create a groundwater assessment. Just
17 as the EIR should have included Castac Lake in its scope, it should have also assessed the
18 impacts on the environment, surrounding communities and water districts of supplying the
19 lake with over 1,500 AFY of scarce groundwater for the benefit of a luxury mountain resort
20 community.

21 110. The EIR and WSA fail to address the water quality problems caused by the
22 filling of Castac Lake. There is also inadequate information on the water quality of turnback
23 pool water.

24 111. The EIR fails to reconcile the Project with the DWR policy that SWP water shall
25 not be used to create an economy dependent on SWP water.

26 112. The SWP entitlements cited by TCWD do not appear to support a development
27 with the demands of TMV. With total TCWD demands at 4,002 AFY and “average year”

1 SWP supplies at the 3,325 AFY claimed by TCWD (itself too optimistic a figure), there is a
2 clear deficit of nearly 700 AFY between yearly SWP supply and TCWD demands, meaning
3 that “banked” water must be used as a primary source even in “normal” years. The EIR and
4 WSA neither acknowledge nor explain this critical deficiency.

5 113. The EIR does not adequately address the inability to secure reliable long-term
6 water for the project from the SWP. With the full impact of two biological opinions and a
7 permanent drought yet to be felt on SWP deliveries, reliability is certain to decrease, and yet
8 the EIR assumes the opposite. The SWP deliveries from TCWD are not a stable long-term
9 supply of water.

10 114. The EIR seriously underestimates the outdoor water requirements for TMV, thus
11 artificially decreasing the project’s overall demands.

12 115. The EIR routinely inflates the reliability of SWP deliveries in average, dry and
13 drought years. The inflated reliability also fails to account for future restrictions on SWP
14 supplies due to intervening factors such as biological opinions and prolonged drought. Due to
15 such factors, the reliability of the SWP for 2009 is forecasted at 40% at best and may not
16 improve for years.

17 116. The EIR improperly discounts or ignores environmental impacts to the San
18 Francisco Bay-Delta caused by the TMV water supply, including but not limited to the
19 20,000+ acre feet of stored Delta water and the Project’s need for permanent ongoing Delta
20 withdrawals.

21 117. Given the inadequacies of the presumed “sources” of water for TMV,
22 groundwater is a likely secondary source for the project. Therefore, a groundwater
23 assessment should have been prepared for the EIR. Yet no such assessment was prepared, and
24 the EIR fails to adequately disclose or analyze the Project’s impacts on groundwater supplies.

25 ***Climate Change / Greenhouse Gasses***

26 118. The EIR fails to adequately disclose and analyze the Project’s impacts to climate
27 change and global warming. The EIR’s analysis is lacking in several respects, including but

1 not limited to the following:

2 a. The greenhouse gas significance criteria used in the EIR is not supported
3 by substantial evidence.

4 b. The EIR fails to adequately respond to the fair argument the project
5 greenhouse gas impacts are significant at levels lower than the significance threshold used in
6 the EIR.

7 c. The EIR improperly places emissions reductions in the hands of third
8 parties while failing to adequately analyze impacts, emissions, mitigation measures, and
9 alternatives.

10 d. The EIR fails to adopt a consistent and appropriate environmental
11 “baseline” for analysis of environmental impacts.

12 e. The EIR fails to adequately analyze how the impacts of climate change
13 will worsen recognized environmental impacts.

14 119. In determining the significance of the Project’s greenhouse gas impacts, the EIR
15 measures Project emissions against 29% below “business-as-usual” emissions. The EIR’s
16 purported support for applying this significance criteria is that the AB 32 Scoping Plan
17 requires California’s *overall* emissions to be reduced by 29% below business-as-usual to
18 reduce emissions to 1990 levels by 2020 as required under AB 32. However, because, among
19 other things, AB 32 does not identify emission reduction expectations from new and existing
20 development in order to meet this target, the EIR’s significance determination is not supported
21 by substantial evidence. Moreover, by focusing exclusively on AB 32 as a means of
22 determining significance, the EIR improperly ignored the long-term emission reduction
23 targets necessary to minimize the risk of dangerous climate change. Unsurprisingly, the 29%
24 below business-as-usual threshold used in the EIR was evaluated by CAPCOA as having a
25 “low” effectiveness at reducing greenhouse gas emissions. CAPCOA similarly determined
26 that projects with approximately 50,000 tons of emissions, far less than 208,000 tons resulting
27 from the Project, had a “low” effectiveness at reducing greenhouse gas emissions and “low”

1 consistency with AB-32 and S-03-05.

2 120. By using an unsupported and over-inflated metric to determine significance, the
3 EIR misleadingly understates Project impacts. In doing so, the EIR also improperly
4 minimizes its mitigation obligations. Even for the subset of project emissions the EIR
5 commits to mitigate, the formulation and analysis of the feasibility of that mitigation is vague,
6 unenforceable, and improperly deferred to a later date through the preparation of “greenhouse
7 gas reports”, depriving the public and decision makers of the opportunity to review and
8 comment on the feasibility and impacts of the overall mitigation measures. The EIR then
9 shifts responsibility for emissions reductions to third parties such as the state through the
10 implementation of AB 32 thus recognizing that the emissions are a significant impact because
11 third party action is needed to reduce emissions.

12 *Air Quality*

13 121. The EIR fails to adequately disclose and analyze the Project’s impacts to air
14 quality. The EIR’s analysis is lacking in several respects, including but not limited to the
15 following:

16 a. The EIR fails to adequately analyze and disclose the significant impacts
17 of other pollutants such as PM 2.5, carbon monoxide, sulphur oxides, and toxic air
18 contaminants.

19 b. The EIR fails to adequately analyze and disclose the feasibility of
20 mitigation measures including, but not limited to, the Voluntary Emissions Reduction
21 Agreement.

22 c. The EIR fails to properly analyze the Project’s consistency with the
23 affected Air Quality Management Plans for the South Coast, San Joaquin, and Mojave Desert
24 Air Basins, including applications of the appropriate local threshold of significance for the
25 corresponding air basins.

26 122. The EIR lacks an adequate analysis of the environmental and public health
27 implications of the Project’s admittedly significant air quality impacts.

1 123. The EIR lacks an adequate analysis of the Projects' cumulative impacts to air
2 quality.

3 ***California Condor***

4 124. The EIR fails to adequately disclose and analyze the Project's impacts to
5 California condors. The EIR's analysis is lacking in several respects, including but not
6 limited to the following:

7 a. The EIR fails to adequately disclose and describe the importance of the
8 Project site to condors, as both essential and critical foraging habitat and as essential
9 connectivity between other essential condor habitat areas, including the coast range and the
10 southern Sierra Nevada.

11 b. The EIR improperly minimizes historic and current use of the Project site
12 by condors and fails to adequately project likely future use.

13 c. The EIR understates the amount of condor foraging habitat that would be
14 lost because of the project.

15 d. The EIR fails to adequately disclose and analyze the Projects' impacts to
16 food sources for the condor, including impacts caused by the elimination and/or reduction of
17 hunting and grazing.

18 e. The EIR fails to consider the considerable additional impacts to condor
19 habitat caused by the edge effects of the fragmented development model of the Project.

20 f. The EIR fails to consider reasonably necessary buffers, either around
21 development areas or around species occurrence data.

22 ***Other Biological Resources***

23 125. The EIR fails to adequately disclose and evaluate the Project's impacts to
24 biological resources, including endangered, threatened, and rare species of wildlife and plants,
25 and sensitive habitats.

26 126. The EIR fails to adequately disclose and evaluate the effect of the Project's
27 fragmentation of the site's existing intact and contiguous habitat into smaller, discontinuous

1 pieces, and fails to evaluate the effect of this fragmentation on the remaining open space
2 areas.

3 127. The EIR fails to adequately disclose and evaluate the effect of continued grazing
4 and ranching activities on the Project's remaining open space areas, including special
5 management areas.

6 128. The EIR fails to adequately disclose and evaluate the effect of establishing and
7 maintaining fuel modification zones on the Project's Special Management Areas.

8 129. The EIR fails to adequately disclose and evaluate and substantially understates
9 significant biological impacts because it relies on flawed, inadequate, and misapplied habitat
10 modeling.

11 130. The EIR's analysis of biological impacts is based on inadequate, incomplete, and
12 inconsistently applied surveys and vegetation mapping.

13 131. The EIR fails to adequately disclose and analyze biological impacts because it
14 postpones the development of essential plans that will affect biological resources until after
15 Project approval, including but not limited to the grazing management plan, fire management
16 plan, Project-wide integrated pest management plan, golf course plan, public access plan,
17 European starling management plan, and the Special Management Area plans. As a result, it
18 is impossible to evaluate the full range of the Project's impacts.

19 132. The analysis of biological impacts is based on an arbitrary and truncated
20 description of the area affected by the Project. This analysis consistently ignores impacts
21 within the 7,867-acre development envelope, as well as indirect impacts throughout the larger
22 26,417-acre planning area, and improperly focuses on the direct impacts within the smaller
23 5,082-acre Project footprint.

24 133. The EIR fails to evaluate the impacts of active vegetation management measures
25 on biological resources, even though the EIR recommends active fuel management as a fire
26 management measure.

27 134. The EIR fails to adequately disclose and analyze the effects of Project-related

1 disturbance on nesting raptors, including golden eagles and prairie falcons.

2 135. The EIR improperly downplays the Project’s biological impacts by classifying
3 long-term and permanent impacts as temporary impacts.

4 ***Cultural Resources***

5 136. The EIR does not adequately consider the indigenous settlements for the entire
6 Tejon Ranch area, and in particular the “CEQA Development Envelope” around Castac Lake.

7 137. The EIR does not disclose or acknowledge the extensive research and study of
8 these cultural resources, including native villages, settlements and possible burial sites,
9 despite Petitioners’ repeated attempts to provide evidence and documentation of such sites to
10 the Planning Department.

11 138. Petitioners CBD and Wishtoyo Foundation, and commentator Edilia Dominguez
12 submitted extensive comments on the EIR that included the documentation of settlements
13 described above. Nonetheless, the EIR fails to identify most of these sites.

14 139. The EIR fails to provide sufficient information regarding indigenous settlements
15 on the Project site that would allow proper evaluation of the Project’s impacts on these
16 settlements.

17 140. The EIR does not address the legality of flooding of Kashtiq village through the
18 artificial filling and expansion of Castac Lake. How this has happened in an environmentally
19 sensitive area affecting all surrounding communities must be adequately investigated and
20 satisfactorily resolved. This is particularly so since a village like Kashtiq would have
21 necessarily had a sacred burial site nearby, which has also been presumably flooded, in clear
22 violation of state and federal laws.

23 141. The EIR neglects discussion of condors as a key cultural resource. The EIR fails
24 to analyze the loss of condor habitat from the perspective of damaging Native American
25 cultural resources and offending their religious beliefs.

26 ***Traffic***

27 142. The EIR fails to provide a full, accurate, and internally consistent analysis of the

1 Project's direct, indirect, and cumulative traffic impacts.

2 143. The EIR fails to fully disclose and evaluate the increased traffic noise impacts
3 that will result from the Project.

4 144. The EIR ignores the fact that neighboring developments, also planned and built
5 as mountain resorts, have evolved into year-round residences largely for commuters to Los
6 Angeles, and to a lesser extent, Bakersfield. The EIR's traffic analysis therefore suffers,
7 understating the impacts of the project on long-term regional traffic patterns.

8 ***Hazards***

9 145. The EIR fails to provide a full, accurate, and internally consistent analysis of the
10 risks posed to the project by the likelihood of a significant earthquake occurring in the area,
11 understating the probability that such an event will occur and understating the damage that
12 such an event will cause.

13 146. The EIR incorrectly states that the likelihood of a major earthquake on the San
14 Andreas Fault in the next 30 years is between 15% and 37%, when the risk is actually as high
15 as 59% for an earthquake of a magnitude of 6.7 or higher within the next 30 years.

16 147. The EIR fails to provide a full, accurate, and internally consistent analysis of the
17 risks the project faces due to wildfires.

18 148. The EIR fails to adequately describe or analyze the potential impacts that may
19 result from flooding on the Project site, including the flooding of Castac Lake and Grapevine
20 Creek.

21 ***Cumulative Impacts***

22 149. The EIR must list and analyze all projects that may lead to cumulative impacts to
23 air quality, biological resources, global warming, water supplies, and other resources. This
24 analysis must include projects outside the control of the agency.

25 150. The EIR does not include adequate information on or analysis of the cumulative
26 impacts of past, present, and probable future projects in and around the Project. Instead the
27 EIR unlawfully narrows the cumulative impacts analysis to omit appropriate projects from

1 analysis.

2 151. The EIR fails to adequately analyze the cumulative impacts resulting from
3 biological, land use, air quality, energy conservation, recreation, aesthetics, hydrology and
4 water quality, water supply, public services, transportation and traffic, population and
5 housing, and growth inducement.

6 ***Growth-Inducing Impacts***

7 152. The EIR fails to adequately discuss the growth-inducing impacts of the Project.
8 The EIR is required to discuss the ways in which the proposed Project could foster economic
9 or population growth, or the construction of additional housing, either directly or indirectly, in
10 the surrounding environment. The EIR must also discuss the Project's potential to "encourage
11 and facilitate other activities that could significantly affect the environment, either
12 individually or cumulatively." As a result, the EIR must analyze how the Project's extension
13 of roads, sewer, water, and other services, facilities, and improvements to an undeveloped area
14 distant from existing infrastructure that would promote additional development that was not
15 adequately analyzed in the EIR.

16 153. Accordingly, Respondents' approval of the Project based on an inadequate
17 disclosure and analysis of the Project's impacts and inconsistencies with governing
18 regulations is not supported by substantial evidence and represents a failure to proceed in the
19 manner required by law.

20 **Failure to Provide Adequate Description of the Project and the Affected Environment**

21 154. CEQA requires that an EIR must provide a complete and accurate description of
22 both the project and the project's environmental setting.

23 155. Castac Lake is a Project amenity that will be managed to provide Project-related
24 benefits. In its managed, unnatural state, Castac Lake is intended as the visual backdrop for
25 the Project, the setting for a Project multi-purpose recreational trail, and the source of water
26 for fire suppression. The hydrology of Castac Lake will be further altered by the Project
27 through the creation of berms and other flood control structures.

1 156. Although Castac Lake is a Project feature, and is entirely surrounded by the
2 Project area, it was excluded from the description of the Project and from the geographic area
3 covered by the Project. In addition, the EIR did not adequately disclose and evaluate the
4 impacts of Castac Lake's management. These omissions mean that Project impacts, including
5 but not limited to impact to groundwater, water quality, and cultural resources, have evaded
6 environmental review.

7 157. The EIR fails to adequately describe the existing environmental setting,
8 including existing grazing and hunting activities and their relationship to condor foraging and
9 other condor behavior.

10 158. The EIR fails to include a concise land use plan for the Project depicting the type
11 and location of development that is likely to occur. The NOP provided a figure showing the
12 anticipated land use plan for the Project, but the Project was changed subsequent to circulation
13 of the NOP. As a result, the EIR does not describe the Project in a manner that is
14 comprehensible to a layperson.

15 159. The EIR's Project description fails to disclose whether active vegetation
16 management will be part of the Project, although active vegetation management is
17 recommended as a fire management measure.

18 **Inadequate Analysis of Mitigation Measures and Alternatives**

19 160. The EIR fails to provide a reasonable analysis of mitigation measures to avoid,
20 minimize, or mitigate the Project's significant environmental impacts. The EIR fails to
21 describe and evaluate reasonable mitigation measures and alternatives that could eliminate or
22 substantially lessen significant environmental impacts of the project.

23 161. CEQA imposes upon Respondents a clear, present, and mandatory duty to
24 analyze and adopt all feasible mitigation measures as well as consider a reasonable range of
25 alternatives and adopt any feasible alternative that would substantially lessen the significant
26 environmental effects of the Project.

27 162. Concrete, enforceable mitigation measures must be required for a project or

1 incorporated into its design. Deferral of the analysis of the feasibility and adoption of
2 mitigation measures violates CEQA.

3 163. The EIR fails to consider adequate mitigation for identified significant impacts,
4 including but not limited to: impacts to water supply, water quality, climate change, air
5 quality, biological resources, cultural resources, traffic, and public safety. The EIR instead
6 relies on measures that will not reduce these impacts to less than significant levels and
7 measures of unknown effectiveness.

8 164. In approving the Project, Respondents failed to adopt feasible mitigation
9 measures that would reduce or avoid the Project's significant environmental impacts,
10 including impacts to water supply, water quality, climate change, air quality, biological
11 resources, cultural resources, traffic, and public safety.

12 165. The EIR fails to consider a reasonable range of alternatives to the Project.

13 166. In approving the Project, Respondents rejected feasible, environmentally
14 superior alternatives to the Project based on the conclusion that these alternatives would not
15 meet basic objectives identified in the EIR for the Project. These objectives, however, are so
16 narrowly drawn that only the Project is capable of satisfying them.

17 ***Water Supply and Quality***

18 167. The EIR fails to adequately mitigate the impacts of the water demands of the
19 project.

20 168. The EIR's proposed water conservation measures are insufficiently enforceable
21 to effectively mitigate the Project's impacts.

22 ***Climate Change and Greenhouse Gasses***

23 169. Instead of adopting all feasible mitigation measures to reduce the significant
24 impacts to climate change the EIR proposes a Voluntary Emissions Reduction Agreement of
25 implausible efficacy to improperly mask impacts. The EIR further defers analysis of many
26 mitigation measures to future greenhouse gas reports. In doing so the EIR short-circuits
27 CEQA's substantive duty to analyze and adopt feasible mitigation measures that would have

1 reduced the significant greenhouse gas impacts of the Project.

2 170. The EIR improperly defers analysis of greenhouse gas emissions and
3 mitigation to later greenhouse gas reports.

4 171. The EIR does not adopt all feasible mitigation measures to mitigate project
5 greenhouse gas impacts and those measures that are identified are improperly vague and
6 unenforceable.

7 ***Air Quality***

8 172. Instead of adopting all feasible mitigation measures to reduce the significant
9 impacts to air quality, the EIR proposes a Voluntary Emissions Reduction Agreement of
10 implausible efficacy to improperly mask impacts. The EIR further defers analysis of many
11 mitigation measures to future air quality reports. In doing so the EIR short-circuits CEQA's
12 substantive duty to analyze and adopt feasible mitigation measures that would have reduced
13 the significant air quality impacts of the Project.

14 173. The EIR proposes a range of mitigation measures to reduce the massive amount
15 of criteria pollution from area and stationary sources, but tragically fails to reduce the
16 significant automobile and truck source emissions that constitute the bulk of the Project's
17 pollution.

18 ***California condor***

19 174. The proposed mitigation measures for the impacts to the California condor fail to
20 properly mitigate these significant impacts. Some are significant impacts themselves, rather
21 than mitigation (i.e., supplemental feeding) while some are redundant restatements of existing
22 law (i.e., lead ammunition ban).

23 175. The EIR fails to adequately identify and analyze the impact artificial
24 supplemental feeding will have on condors and on the recovery of the species.

25 176. The EIR fails to adequately identify and analyze the impact the elimination
26 and/or reductions of hunting will have on condors and the recovery of the species.

27 177. The EIR fails to evaluate and propose adequate buffers to protect habitat for the

1 California condor.

2 ***Other Biological Resources***

3 178. Mitigation measures proposed for identified significant impacts to endangered,
4 threatened, and rare wildlife and plants are vague and generic, making it impossible to
5 determine whether and how a particular impact is mitigated to a less than significant level.

6 179. The EIR fails to evaluate and propose adequate buffers to protect habitats for
7 endangered, threatened, and rare wildlife and plants, vernal pools and other seasonal wetlands,
8 and wildlife movement corridors.

9 180. The EIR fails to evaluate and propose adequate measures to control the effects of
10 invasive non-native species associated with the Project.

11 181. The EIR fails to demonstrate the effectiveness of maintaining open space and
12 special management areas as mitigation for the Project's biological resource impacts in light
13 of continued grazing and ranching, the effects of fuel modification zones, fragmentation of
14 existing habitat, severed biological linkages, and other direct, indirect, and cumulative impacts
15 on these open space and Special Management Areas.

16 182. The Project's proposed biological reserve areas are designed based on the areas
17 where development is not feasible or not planned, rather than on scientific reserve design
18 principles. As a result, the proposed biological reserves do not adequately mitigate the
19 Project's impacts on biological resources.

20 183. The Project's remaining open space lands will have limited value for mitigating
21 the Project's biological impacts due to habitat fragmentation, severed biological linkages, and
22 other direct and indirect effects. The EIR overstates the mitigation value of the islands of
23 open space remaining within the Project area, and fails to provide substantial evidence that
24 these areas adequately mitigate the Project's biological impacts.

25 184. The EIR improperly defers the mitigation of biological impacts by postponing
26 essential mitigation plans until after Project approval, including but not limited to the grazing
27 management plan, fire management plan, Project-wide integrated pest management plan, golf

1 course plan, public access plan, European starling management plan, and the Special
2 Management Area plans.

3 185. The EIR improperly relies on pre-construction surveys as mitigation for
4 biological impacts.

5 186. The EIR fails to consider feasible mitigation measures that would avoid or
6 minimize impacts to rare or sensitive plant species.

7 187. The EIR fails to propose and evaluate feasible mitigation measures that would
8 avoid or minimize impacts to nesting raptors.

9 ***Cultural Resources***

10 188. The EIR's failure to adequately identify many Indian village sites necessarily
11 means that the EIR fails to provide adequate assessment of mitigation measures for these sites.

12 189. The sites that the EIR does identify are provided with insufficient mitigation
13 measures. In particular, there is no "mitigation" for the permanent flooding of Kashtiq
14 village. Likewise, the use of textile matting and fill in order to build over sacred sites is not
15 sufficiently supported as a mitigation measure.

16 190. The EIR incorrectly assumes credible oversight of archaeological activities and
17 approval of mitigation measures. Given the dubious circumstances surrounding the flooding
18 of Kashtiq village and the discovery of a mass grave near Castac Lake, independent
19 supervision of the archaeological sites must be guaranteed.

20 ***Hazards***

21 191. Despite admitting a 15% to 37% probability of the area experiencing a large
22 earthquake on the San Andreas fault in the next 30 years, the EIR concludes that mitigation
23 measures reduce earthquake risks to "less than significant." This conclusion is unsupportable
24 and the proposed mitigation measures are inadequate.

25 192. Mitigation measures for wildfire risk are inadequate. Compliance with existing
26 state and local fire codes (Mitigation Measures 4.4-13 and 4.4-14) is required by the law, and
27 therefore does not constitute valid mitigation.

1 193. There is no substantial evidence that the proposed fire safety mitigation measures
2 will be effective without active vegetation management on the Project site. Conversely, the
3 EIR fails to evaluate the environmental consequences and feasibility of active vegetation
4 management.

5 194. The EIR fails to provide adequate enforcement and monitoring of mitigation
6 measures that are designed to reduce the risk of damage caused by wildfires.

7 **Inadequate Response to Comments**

8 195. Respondents failed to respond adequately to comments submitted by Petitioners,
9 other members of the public, and other agencies. Instead, the responses given to numerous
10 comments regarding the Project’s impacts on water supply, water quality, climate change, air
11 quality, biological resources, cultural resources, traffic, and public safety, mitigation
12 measures, and alternatives are conclusory, evasive, confusing, or otherwise non-responsive,
13 contrary to the requirements of CEQA. In addition, Respondents failed to provide an
14 adequate rationale for rejecting alternatives to the Project proposed by Petitioners and other
15 commenting agencies and persons. By failing to provide adequate responses to public
16 comments and proposed alternatives, Respondents failed to proceed in the manner required by
17 law.

18 **Failure to Recirculate EIR**

19 196. CEQA requires that an EIR must be recirculated for additional public and agency
20 comment when new information is added after the EIR’s initial circulation but prior to
21 certification.

22 197. Respondents failed to recirculate the EIR despite the availability of significant
23 new information prior to certification regarding the Project’s environmental consequences.

24 **CEQA Findings Not Supported By Substantial Evidence**

25 198. No substantial evidence supports Respondents’ findings adopted pursuant to
26 CEQA, including the findings that the Project’s water supply, water quality, climate change,
27 air quality, biological resources, cultural resources, traffic, and public safety impacts have

1 been mitigated to less than significant levels.

2 **Statement of Overriding Considerations Not Supported By Substantial Evidence**

3 199. Where no feasible mitigation measures or alternatives are available to avoid or
4 reduce a project's significant environmental effects, CEQA allows an agency approving a
5 project to adopt a Statement of Overriding Considerations that describes how specific
6 overriding economic, legal, social, technological, or other benefits outweigh the significant
7 environmental effects.

8 200. In approving the Project and certifying the EIR, Respondents concluded that the
9 Project would result in significant unavoidable air quality and traffic impacts, and
10 cumulatively considerable climate change impacts. Accordingly, Respondents adopted a
11 Statement of Overriding Considerations, including findings that specific considerations make
12 infeasible the mitigation measures or alternatives identified in the EIR for the Project's
13 unavoidable significant impacts and that economic, social, and other factors justify approval
14 of the Project despite these unavoidable significant impacts.

15 201. Respondents' adoption of a Statement of Overriding Considerations that
16 purportedly justifies the Project's significant adverse impacts on the environment is not
17 supported by substantial evidence and represents a failure to proceed in the manner required
18 by law. Similarly, the finding that no feasible alternatives of mitigation measures exist to
19 eliminate or reduce the remaining significant effects is not supported by substantial evidence.

20
21 **SECOND CAUSE OF ACTION**

22 **Violation of Planning and Zoning Law (Government Code § 65000 *et seq.*)**

23 202. Petitioners hereby incorporate by reference each and every allegation set forth
24 above.

25 203. Under the California Planning and Zoning Law (Government Code § 65000 *et*
26 *seq.*), the General Plan is a fundamental land use planning document, superior to all other land
27 use plans and serving as the constitution or blueprint for all future development. The General

1 Plan consists, among other things, of a set of goals and policies. All development and land
2 use actions, including the approval of the Project entitlements, must conform to or be
3 consistent with the General Plan, a requirement known as “vertical consistency.”

4 204. Government Code § 65300.5 imposes upon Respondent County a clear, present
5 and mandatory duty to ensure consistency of project approvals with their General Plan.
6 Government Code § 65300.5 states “. . . the Legislature intends that the general plan and
7 elements and parts thereof comprise an integrated, internally consistent and compatible
8 statement of policies for the adopting agency." Pursuant to the Subdivision Map Act,
9 Respondents must deny any tentative tract map that is inconsistent with the applicable General
10 Plan. Government Code § 66473.5.

11 205. The Kern County General Plan has a broad range of goals, policies, and
12 programs including, but not limited to, the following: requirements for smart growth
13 development that maximizes efficient land use and reduce vehicle trips; requirements for
14 specific traffic guidelines; requirements to avoid of public safety hazards due to wildfire,
15 seismic action, and air quality emissions; prohibitions on development on steep slopes;
16 requirements for protections of natural, cultural, water and scenic resources; requirements for
17 the provision of an adequate jobs-housing balance, and housing availability; prohibitions on
18 noise above specific metrics; requirements for specific land use adjacency provisions;
19 requirements for adequate sources of quality water; and requirements for specific metrics for
20 residential and commercial growth. Unfortunately, the Project fails to adhere to the General
21 Plan in many of the elements expressed above.

22 206. The General Plan also requires that applications for general or specific plan
23 amendments include sufficient data for review of new development projects. In numerous
24 instances, the TMV EIR did not comply with this General Plan requirement by including
25 insufficient data relating to the water supply, biological resources, traffic, air quality, cultural
26 resources, hazards, and project description and environmental setting.

27 207. In addition, Respondents must deny any tentative tract map if the design or

1 improvement of the subdivision is “likely to cause substantial environmental damage or
2 substantially and avoidably injure fish or wildlife or their habitat” or “is likely to cause serious
3 public health problems.” Government Code § 66474(e), (f).

4 208. As approved, the Project is likely to cause substantial environmental damage,
5 substantially and avoidably injure wildlife and wildlife habitat, and cause serious public health
6 problems through significant negative impacts to air quality and global warming.

7 209. Pursuant to Government Code § 66473.7, Respondents are required to condition
8 approval of the Tract Map on the availability of a sufficient water supply to serve future
9 development of the tract. Government Code § 66473.7(a)(2) defines “sufficient water supply”
10 to mean that “the total water supplies available during normal, single-dry, and multiple-dry
11 years within a 20 year projection that will meet the projected demand associated with the
12 proposed subdivision, in addition to existing and planned future uses, including, but not
13 limited to, agricultural and industrial uses.”

14 210. The General Plan also requires that high-consumptive water uses such as lakes
15 and golf courses have a water source other than groundwater. Castac Lake is a new high-
16 consumptive water use that is wholly dependent on groundwater, in violation of the General
17 Plan.

18 211. The EIR and associated water supply assessment, among other things, omit
19 required documentation and inadequately evaluate the reliability of the potential sources of
20 long-term water supply for the Project, rely on speculative future actions, fail to consider
21 pending State Water Project pumping curtailments, and otherwise fail to provide substantial
22 evidence that sufficient water will be available for the Project.

23 24 **THIRD CAUSE OF ACTION**

25 **Violation of Water Code (Cal. Water Code § 10910)**

26 212. Petitioners hereby incorporate by reference each and every allegation set forth
27 above.

- 1 (C) to prepare and certify a legally adequate EIR for the Project;
2 (D) to prepare and certify a legally adequate WSA for the project;
3 (E) to prepare and certify a legally adequate Groundwater Assessment for the
4 project; and
5 (F) to suspend any and all activity pursuant to Respondents' approval of the Project
6 that could result in an adverse change or alteration to the physical environment until
7 Respondents have complied with all requirements of CEQA and all other applicable state and
8 local laws, policies, ordinances, and regulations as are directed by this Court pursuant to Public
9 Resources Code section 21168.9.

10 2. For an order enjoining Respondent and Real Parties in Interest from taking any
11 action to construct any portion of the project or to develop or alter the project site in any way
12 that could result in a significant adverse impact on the environment unless and until a lawful
13 approval is obtained from Respondent after the preparation and consideration of an adequate
14 EIR and unless and until Respondents and Real Parties in Interest have fully complied with all
15 requirements of CEQA, Planning and Zoning Laws, and all other applicable state and local
16 laws, policies, ordinances, and regulations;

17 3. For costs of the suit;

18 5. For attorney's fees pursuant to the Code of Civil Procedure section 1021.5; and

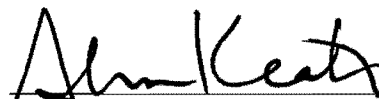
19 6. For such other and further relief as the Court deems just and proper.

20

21

22 DATED: November 12, 2009

By:



Adam Keats

John Buse

Matthew Vespa

Jonathan Evans

Attorneys for Petitioner

CENTER FOR BIOLOGICAL DIVERSITY and

WISHTOYO FOUNDATION

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By:

Jason A. Weiner
Attorney for Petitioner
WISHTOYO FOUNDATION

By:

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Caroline Farrell
Attorneys for Petitioners
CENTER FOR RACE, POVERTY AND THE
ENVIRONMENT and TRICOUNTY
WATCHDOGS

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VERIFICATION

I have read the foregoing Petition for Writ of Mandate and know its contents.

I am the Executive Director of the Wishtoyo Foundation, which is a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing document and know its contents. The matters stated in it are true of my own knowledge except as to those matters that are stated on information and belief, and as to those matters I believe them to be true.

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

Executed on November 12, 2009, at Ventura, California.



Mati Waiya
Wishtoyo Foundation

EXHIBIT A



November 10, 2009

via First Class Mail and electronic mail

Kern County Board of Supervisors
Kern County
c/o Kathleen Krause, Clerk of the Board
1115 Truxtun Avenue, 5th floor
Bakersfield, CA 93301
clerkofboard@co.kern.ca.us

RE: Notice of Commencement of Action

Dear Ms. Krause and members of the Board:

Pursuant to Cal. Public Resources Code § 21167.5, please take notice that the Center for Biological Diversity, Wishtoyo Foundation, Tri-County Watchdogs, and Center for Race, Poverty, and the Environment intend to commence an action in Kern Superior Court under the California Environmental Quality Act (“CEQA”) against Kern County and the Kern County Board of Supervisors (together, “County”) concerning the County’s granting of approvals for the Tejon Mountain Village project on October 5, 2009, including the certification of the EIR, approval of associated General Plan amendments, adoption of associated Zoning Maps, adoption of Special Plan No. 1, Map 256, exclusion from Agricultural Preserves No.’s 4 and 19, and approval of Vesting Tentative Tract Map 6720, 6717, among other associated approvals (“Project”).

This action will allege that the County failed to properly follow the procedures and requirements of CEQA in ways including, but not limited to: Failure to Identify, Analyze, and Mitigate Impacts to Air Quality, Biological Resources, Hydrology and Water Quality, Traffic, Cultural Resources, Hazards, and Failure to Adequately Describe the Project and the Environmental Setting. The action will also allege that the County has violated the Planning and Zoning Law (Government Code § 65000 *et seq.*) and violated the Kern County General Plan.

Among other things, the Petition will seek to set aside findings that the project satisfies the requirements of CEQA and enjoin any further steps in support of the project until adequate CEQA review is conducted and lawful approvals are obtained.

If you need more information or have any questions please do not hesitate to contact me.

Sincerely,

Adam Keats