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11 Watershed Protection Committee

12 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
13 IN AND FOR THE COUNTY OF SONOMA

14 RUSSIAN RIVER WATERSHED)	Case No.:
15 PROTECTION COMMITTEE, a public)	VERIFIED PETITION FOR WRIT OF
16 benefit corporation,)	MANDATE
17)	
18 Petitioner/Plaintiff,)	
19 v.)	(Code Civ. Proc. §§ 1094.5, 1085;
)	Pub. Res. Code §§ 21168, 21168.5)
20 SONOMA COUNTY WATER AGENCY,)	
21 a special district; BOARD OF)	
22 DIRECTORS OF THE SONOMA)	
23 COUNTY WATER AGENCY, a special)	
24 district,)	
)	
25 Respondent/Defendant/Real party in)	
26 Interest.)	

27 Petitioner RUSSIAN RIVER WATERSHED PROTECTION COMMITTEE petitions this
28 Court for a writ of mandate directed to Respondents SONOMA COUNTY WATER AGENCY and
its BOARD OF DIRECTORS (collectively "SCWA"), and by this verified petition, alleges as
follows:

1. This petition challenges the unlawful action of Respondents in 1) adopting the Russian River Estuary Management Project ("Estuary Project" or "Project") and all findings purporting to support such approval including without limitation those adopting mitigation measures and a mitigation monitoring program, and 2) certifying the associated Final Environmental Impact Report

1 recreational, scenic, spiritual, scientific, historic, cultural and community interests will, unless the
2 relief requested herein is granted, be adversely affected and injured by Respondents' failure to
3 comply with CEQA in approving the Project and the EIR. Petitioner brings this action on behalf of
4 itself and the public interest.

5 5. Respondent SONOMA COUNTY WATER AGENCY is the lead agency responsible
6 under CEQA for evaluating the environmental impacts of the Project. SCWA was created as a
7 special district in 1949 by the California Legislature to provide flood protection and water supply
8 services. The Sonoma County Board of Supervisors acts as the Water Agency's Board of Directors.

9 6. Respondent BOARD OF DIRECTORS OF THE SONOMA COUNTY WATER
10 AGENCY ("Board") is the governing body of the Agency and is ultimately responsible for reviewing
11 and approving or denying the Project. The Board and its members are sued here in their official
12 capacities.

13 **JURISDICTION AND VENUE**

14 7. Pursuant to California Code of Civil Procedure section 1085 (alternatively section
15 1094.5) and Public Resources Code sections 21168.5 (alternatively section 21168) and 21168.9, this
16 Court has jurisdiction to issue a writ of mandate to set aside Respondents' decision to certify the EIR
17 and approve the Project.

18 8. Venue is proper in this Court because this action challenges acts done by a public
19 agency, and the causes of action alleged in this Petition and Complaint arose in the County of
20 Sonoma. Venue also is proper in this Court because the District's main office is located in the
21 County of Sonoma.

22 9. Petitioner has complied with the requirements of Public Resources Code section
23 21167.5 by serving a written notice of Petitioner's intention to commence this action on the District
24 on September 13, 2011. A copy of the written notice and proof of service is attached hereto as
25 Exhibit A.

26 10. Petitioner will comply with the requirements of Public Resources Code section
27 21167.6 by concurrently filing a notice of its election to prepare the record of administrative
28

1 proceedings relating to this action. A copy of the notice is attached hereto as Exhibit B.

2 11. Petitioner has complied with the requirements of Public Resources Code section
3 21167.7 by sending a copy of this Petition and Complaint to the California Attorney General on
4 September 14, 2011. A copy of the letter transmitting this Petition is attached hereto as Exhibit C.

5 12. Petitioner has performed any and all conditions precedent to filing this instant action
6 and has exhausted any and all available administrative remedies to the extent required by law.

7 13. Petitioner has no plain, speedy or adequate remedy in the course of ordinary law
8 unless this Court grants the requested writ of mandate to require Respondents to set aside their
9 certification of the EIR and approval of the Project. In the absence of such remedies, Respondents'
10 decision will remain in effect in violation of state law.

11 14. This petition is timely filed within the applicable statute of limitations provided by
12 CEQA.

13
14 **FACTUAL BACKGROUND**

15 15. The Russian River flows into the Pacific Ocean at Goat Rock State Beach near the
16 Town of Jenner. The lower part of the River is a haven for recreational enthusiasts. Goat Rock State
17 Beach is the second most popular beach on the Sonoma County coast. Hundreds of thousands of
18 people visit the beach and the mouth of the Russian River each year. About two-thirds of all visits to
19 the beach occur from May 1 through October 15. Several beaches also are located on the mainstem
20 of the River in areas that will be affected by the Estuary Project. These include the Monte Rio
21 Community Beach and Vacation Beach in Guerneville.

22 16. Hundreds of Harbor seals (*Phoca vitulina richardii*) regularly haul out at the mouth of
23 the Russian River as well as at river haulouts at logs and rock piles in the Russian River Estuary. The
24 Harbor seal pupping season extends from March 15 to June 30.

25 17. The Russian River Estuary is open to the ocean tides for much of the year. At certain
26 times, the natural formation of a barrier beach across the mouth of the Russian River cuts off the tidal
27 connection between the ocean and the Russian River and creates a lagoon.

1 18. The water in the lagoon formed by the barrier beach at the mouth of the Russian River
2 tends to stratify, becoming increasingly freshwater on the top layer depending on the duration of the
3 closure. Once formed, freshwater from upstream continues to flow into the newly-formed lagoon and
4 builds up on top of the salt water layer, gradually forcing the salt water layer to seep back into the
5 ocean through the barrier beach. It generally takes thirty days or more for a freshwater lagoon to
6 form following formation of a barrier beach.

7 19. Closure of the river's mouth occurs most often during the spring and fall and
8 sometimes during the summer. Closures result in increasing water levels in the Estuary behind the
9 barrier beach and an increase in the risk of flooding low-lying properties. When Estuary water levels
10 exceed the capability of the barrier beach to impound this water, natural breaching of the barrier
11 beach occurs with the formation of a tidal channel that reconnects the Russian River to the Pacific
12 Ocean.

13 20. Beginning in 1995, SCWA took over previous private and public activities related to
14 artificially breaching the barrier beach. Currently, SCWA artificially breaches the barrier beach when
15 the water surface level in the Estuary is between 4.5 and 7.0 feet above mean sea level, as determined
16 by a gauge at the Sonoma Coast State Beach Jenner Visitor Center. Under the current Estuary
17 management, the barrier beach is generally closed no more than five to 14 days before artificial
18 breaching occurs. Under current practices, the Estuary has not remained closed for a period longer
19 than 30 days.
20

21 **The Biological Opinion**

22 21. Two major reservoir projects provide water supply storage in the Russian River
23 watershed: 1) Coyote Valley Dam/Lake Mendocino, located on the East Fork of the Russian River
24 three miles east of Ukiah, and 2) Warm Springs Dam/Lake Sonoma, located on Dry Creek 14 miles
25 northwest of Healdsburg. SCWA is the local sponsor for these two federal water supply and flood
26 control projects. Under agreements with the United States Army Corps of Engineers ("Army
27 Corps"), SCWA manages the water supply storage space in these reservoirs to provide a water supply
28 and maintain summertime Russian River and Dry Creek streamflows.

1 22. During the rainy season (October through May), natural streamflow, rather than
2 reservoir releases, accounts for most of the flow in the Russian River. From June through September,
3 a portion of the flow in the Russian River is composed of water released from storage in Lake
4 Mendocino and Lake Sonoma. The altered flow regimes caused by the dams and related facilities
5 change the natural hydrology of the Russian River estuary.

6 23. On September 24, 2008, the National Marine Fisheries Service (“NMFS”) issued a
7 final “Biological Opinion for Water Supply, Flood Control Operations and Channel Maintenance
8 Conducted by U.S. Army Corps of Engineers, Sonoma County Water Agency, and the Mendocino
9 County Russian River Flood Control and Water Conservation Improvement District in the Russian
10 River watershed.” The Biological Opinion addressed ongoing practices and operations of SCWA and
11 the other two agencies on the Russian River related to flood control, water diversion and storage,
12 regulation of flows in the Russian River and Dry Creek, estuary management, hydroelectric power
13 generation, channel maintenance, and fish hatchery production. All of these actions together were
14 identified by NMFS as a single project entitled the “Russian River Water Supply and Flood Control
15 Project.”
16

17 24. NMFS concluded in the Biological Opinion that the continued operations of Coyote
18 Valley Dam and Warm Springs Dam by the Army Corps and SCWA in a manner similar to recent
19 historic practices, together with SCWA’s stream channel maintenance activities and estuary
20 management, are likely to jeopardize and adversely modify critical habitat for endangered Central
21 California Coast coho salmon and threatened Central California Coast steelhead. NMFS concluded
22 that the artificially elevated summertime minimum flows in the upper Russian River and Dry Creek
23 that are currently required by the State Water Resources Control Board’s (“State Board”) Decision
24 1610 result in high water velocities that reduce the quality and quantity of rearing habitat for coho
25 salmon and steelhead. Additionally, NMFS concluded that SCWA’s current artificial breaching of
26 the barrier beach at the mouth of the river disrupts lagoon formation in the Russian River estuary.
27 Rearing habitat may be enhanced by reducing tidal influence on the Russian River Estuary from May
28 15 to October 15 (“lagoon management period”) to increase freshwater habitat available for salmon

1 and steelhead. Also, according to the Biological Opinion, the current minimum flow levels required
2 for the lower Russian River as measured at the Hacienda Bridge upstream of Guerneville were at a
3 level that prompted additional breaching of the river's barrier beach for flood control purposes.
4 Hence, the minimum flow rates at the Hacienda Bridge are directly related to the frequency of beach
5 breaching activities at the river's mouth.

6 25. According to the EIR, the Russian River Biological Opinion mandates SCWA and the
7 Army Corps implement a series of actions identified as Reasonable and Prudent Alternatives
8 ("RPAs") to modify existing water supply and flood control activities. One of the actions identified
9 by the Biological Opinion is the Estuary Management Project. Another action identified by the
10 Biological Opinion is the Fish Habitat Flows and Water Rights Project ("Fish Flow Project").
11

12 26. SCWA has developed the Russian River Instream Flow and Restoration Program to
13 implement the coordinated measures identified by the Biological Opinion.

14 **The Estuary Management Project**

15 27. The Estuary Project changes the existing actions by SCWA to breach the barrier beach
16 at the mouth of the Russian River. The Estuary Project intends to adaptively manage a lagoon outlet
17 channel through the barrier beach to achieve an average daily water surface elevation of at least 7 feet
18 during the lagoon management period from May 15 to October 15. During other times of the year,
19 the current management actions will continue.

20 28. The Estuary Project provides that during the lagoon management period, following
21 natural formation of the barrier beach and establishment of a freshwater lagoon, SCWA would create
22 an outlet channel at an elevation that would allow for overflow from the lagoon, thereby maintaining
23 water surface elevations within the lagoon that are above the tide range while minimizing property
24 inundation. The water levels would be substantially higher than SCWA has previously allowed to
25 occur with its beach breaching activities. Once established, it is anticipated that the outlet channel
26 will allow for longer duration of freshwater lagoon conditions during the lagoon management period
27 and improve rearing habitat for juvenile salmonids.
28

1 the 125 cfs flow requirement requires SCWA to conduct additional beach breaching activities at the
2 mouth of the River.

3 34. Pending approval and implementation of the Fish Flow Project, the Biological Opinion
4 requires SCWA to petition the State Board to permit temporary changes to the Russian River flow
5 requirements at the Hacienda Bridge from May 1 through October 15 which are equivalent to the
6 flow changes that would be implemented as part of the Fish Flow Project. The annual minimum flow
7 changes are known as “Temporary Urgency Changes.”

8 35. SCWA petitioned the State Board for the Biological Opinion-specified Temporary
9 Urgency Change Order for the first time in 2010. The State Board approved the requested Temporary
10 Urgency Change in its Order WR 2010-0018-DWR. The same Temporary Urgency Change Order
11 also was requested by SCWA and approved by the State Board for 2011. The Temporary Urgency
12 Change requested by SCWA reduces the minimum instream flow requirement at the Hacienda Bridge
13 from 125 cubic feet per second (“cfs”) during normal rain years as mandated by the State Board’s
14 Decision 1610 to 70 cfs for the lower Russian River between May 1 and October 15. During dry
15 years, the Temporary Urgency Change requested by SCWA reduces the minimum instream flow for
16 the lower Russian River at the Hacienda Bridge from 85 cfs to 70 cfs. Neither SCWA nor the State
17 Board conducted any CEQA review for the previous two Temporary Urgency Change Orders,
18 concluding that action in isolation was subject to various exemptions under CEQA. The Temporary
19 Urgency Change flow rate is the same as requested under the Fish Flow Project except the Fish Flow
20 Project would implement those reduced minimum flow rates permanently.
21

22 **Project Impacts**

23 36. Pollution levels in the lower reaches of the Russian River currently exceed applicable
24 water quality objectives and federal Environmental Protection Agency criteria. For example,
25 exceedances of EPA’s nitrogen criterion have been measured in the lower Russian River. Total
26 phosphorus concentrations exceeded the EPA criteria a majority of the times measured in the Estuary
27 including during both open and closed barrier beach conditions. Total coliform levels measured for
28 water samples in the lower Russian River have exceeded the bacteria water quality objective

1 established for estuarine and freshwaters by the California Regional Water Quality Control Board,
2 North Coast Region. Total coliform levels also have exceeded draft guidance for levels warranting
3 posting of freshwater beaches. High levels of nutrients also have been measured in the lower river in
4 the vicinity of Monte Rio. The Regional Water Quality Control Board and State Board have
5 identified the stretch of the Russian River between Fife Creek in Guerneville and Dutch Bill Creek in
6 Monte Rio as impaired for pathogens. The EIR concludes that the Estuary Project has the potential to
7 result in significant and unavoidable impacts to water quality related to bacterial and nutrient levels in
8 the Estuary.

9 37. During breaching operations, seals at the haulouts on Goat Rock State Beach are
10 flushed from the haulouts by the workers and approaching heavy equipment. It is estimated that seals
11 return at least a full day after such disturbances. Whenever the barrier beach closes the mouth of the
12 river, the seals abandon the haul-out at Goat Rock State Beach. In addition, the Estuary Project will
13 raise water surface levels within the Estuary and adversely affect or eliminate the three existing river
14 haulout sites within the Estuary. According to the EIR, the impact to these mainstem river haulout
15 sites is significant and unavoidable.

16 38. During times of the year when the Russian River Estuary is open, Goat Rock State
17 Beach is a popular surfing location due to outflow from the Estuary depositing sediment into the
18 ocean which creates a unique wave break. According to the EIR, the Project's increases in the
19 duration of the lagoon at the mouth of the river and its alteration to the river's outflow into the ocean
20 will have a significant and unavoidable impact on surfing at Goat Rock State Beach.

21 39. In addition to surfing, other recreational uses within and adjacent to the Estuary will be
22 adversely affected by the Project. Other areas in the lower Russian River affected by the Project
23 include a formal public access at Monte Rio Community Beach. Monte Rio Beach is one of the
24 largest beaches on the lower Russian River. Monte Rio Community Beach is located on a large bend
25 in the river and offers picnic amenities and boat rental facilities. Vacation Beach is also a popular
26 recreation area located in Guerneville. Numerous small, often private beaches are located up and
27 down the lower river. There also are many private docks from which people launch kayaks and
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1 canoes. According to the EIR, the Estuary Project will have significant and unavoidable impacts on
2 gravel bars and shoreline beaches in the Estuary. The EIR fails to address the impacts of raising
3 water levels on the upstream beaches in Monte Rio and Guerneville.

4 40. Impoundment of water in the Estuary leads to stratification of the impounded waters,
5 including an anoxic layer in the lower water column. The depletion of oxygen along the bottom of
6 the Estuary adversely affects bottom-dwelling animals, including crustaceans and fish.

7 41. The conversion time required to convert the lagoon formed by the barrier beach from
8 saltwater to freshwater can affect aquatic life, especially organisms lower on the food chain, that
9 require relatively stable hydrologic conditions in order to survive.

10 42. Natural estuarine systems tend to provide highly productive aquatic habitat during
11 open and fully estuarine conditions as well as during closed and fully converted freshwater
12 conditions. The transition period during which the lagoon created by a barrier beach changes from a
13 salt water to a fresh water environment tends to be a time of low productivity and can result in the
14 loss of species.
15

16 **PROCEDURAL BACKGROUND**

17 43. Respondents caused a draft environmental impact report for the Estuary Project to be
18 prepared and circulated from December 15, 2010 to February 14, 2011. On January 18, 2011, SCWA
19 held a public hearing on the draft EIR. The final EIR was completed in July 28, 2011.

20 44. By motion, dated August 16, 2011, Respondents resolved to certify the adequacy of
21 the EIR under CEQA, adopted Findings, adopted a Statement of Overriding Considerations, and
22 adopted a Mitigation, Monitoring and Reporting Program pursuant to CEQA. That same day,
23 Respondents approved the Estuary Management Project.

24 45. On August 16, 2011, Respondents filed a notice of determination to carry out the
25 Project with the Office of the Sonoma County Clerk. On August 22, 2011, Petitioner's Chair, Brenda
26 Adelman, visited the Office of the Sonoma County Clerk. Ms. Adelman observed and photographed
27 the Clerk's public notice bulletin board. Ms. Adelman was unable to locate the notice of
28 determination for the Estuary Management Project posted on the Clerk's bulletin board. In order to

1 view the public notice, Ms. Adelman was required to stand in a line for a half-hour and then request a
2 copy of the notice of determination which was then provided to her over the counter at the Clerk's
3 office. As of August 22, 2011, the notice of determination was not posted by the Clerk's office in a
4 manner visible to the public.

5 46. Petitioner, other agencies, interested groups, and individuals participated in the
6 administrative proceedings leading up to Respondents' approval of the Project and certification of the
7 EIR, either by participating in hearings thereon or by submitting letters commenting on Respondents'
8 Notice of Preparation, DEIR or FEIR. Petitioner attempted to persuade Respondents that their
9 environmental review did not comply with the requirements of CEQA, to no avail. Respondents'
10 approval of the Estuary Project and certification of the EIR is not subject to further administrative
11 review by Respondents. Petitioner has availed itself of all available administrative remedies for
12 Respondents' violation of CEQA. Petitioner has no plain, speedy, or adequate remedy in the ordinary
13 course of law within the meaning of Code of Civil Procedure § 1086, in that Respondents' approval
14 of the Estuary Project and associated EIR is not otherwise reviewable in a manner that provides an
15 adequate remedy. Accordingly, Petitioner seeks this Court's review of Respondents' approval of the
16 Project and certification of their EIR, to rectify the violations of CEQA summarized above and
17 detailed below.

18
19 **DEFICIENCIES IN ENVIRONMENTAL IMPACT REPORT**

20 47. Respondents are threatening to proceed with operation of the Project immediately.
21 Operation of the Estuary Project will irreparably harm the environment in that Respondents will
22 commence with beach breaching activities pursuant to the flawed EIR prepared for the Estuary
23 Project resulting in aesthetic, water quality, recreational, noise, and other environmental impacts to
24 Petitioner. An immediate stay should issue restraining Respondents from proceeding with the
25 Estuary Project relying upon the EIR.

26 48. Respondents' actions in certifying the EIR, adopting Findings, adopting a Mitigation,
27 Monitoring and Reporting Program, adopting the Statement of Overriding Considerations, and
28 approving the Estuary Project constitute a prejudicial abuse of discretion in that Respondents failed to

1 proceed in the manner required by law and its decision is not supported by substantial evidence as
2 follows:

- 3 (a) Respondents relied upon an inadequate and unlawful project description by bifurcating
4 the Estuary Project from the Temporary Urgency Changes and Fish Flow Project. As a result,
5 Respondents failed to evaluate all of the potential impacts of the whole project.
- 6 (b) Respondents arbitrarily truncate the project area by failing to adequately identify,
7 discuss and mitigate the Project's impacts upstream to Monte Rio and Vacation Beach.
- 8 (c) Respondents fail to assess the impacts of the reasonably foreseeable action to
9 artificially create the barrier beach when the beach does not initially close on its own.
- 10 (d) Respondents misrepresent the baseline for water quality impacts by incorrectly
11 characterizing conditions as natural and claiming that there are not bacteria standards for
12 estuarine waters.
- 13 (e) Respondents failed to adequately disclose impacts to recreational users and the
14 environment throughout the lower Russian River areas affected by the Project, including areas
15 up to Monte Rio and Vacation Beach. Impacts that were not addressed in these areas include
16 but are not limited to, health and safety risks, bank erosion, water depth increase, loss of
17 beach front areas, hazardous swimming conditions, degraded water quality impacts resulting
18 from prolonging the presence of a lagoon, and increased presence of invasive species.
- 19 (f) Respondents failed to adequately disclose the impacts of low flow conditions in the
20 river resulting from the Temporary Urgency Changes Orders and the Fish Flow Project,
21 including the potential of increasing pollution levels of nutrients, mercury, heavy metals,
22 bacteria, and temperature and potential impacts to Chinook salmon present in the river.
- 23 (g) Respondents failed to adequately disclose the Project's impacts on pinnipeds and the
24 conclusion that impacts to pinnipeds is less than significant with mitigation is not supported
25 by substantial evidence. In addition, Respondents failed to include adequate mitigation to
26 reduce the Project's impacts to pinnipeds to a less than significant level.
27
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1 (h) Respondents failed to disclose the Project's noise impacts on beach goers and wildlife.
2 Respondents conclusion that the Project's noise impacts will be less than significant is not
3 supported by substantial evidence.

4 (i) Respondents fail to discuss and analyze the Project's impacts on sediment quality in
5 the lower Russian River and near shore ocean waters.

6 (j) Respondents' references to an undisclosed adaptive management plan improperly
7 defers mitigation. The EIR does not disclose the details comprising the Adaptive
8 Management Plan. The EIR also refers to monitoring and updating of the plan, but does not
9 inform decision makers what the plan is, what triggers plan implementation, and what
10 monitoring would take place.

11 (k) Respondents' conclusion that the Project's impacts on recreational uses, including
12 surfing, will be significant and unavoidable is improper and not supported by substantial
13 evidence because Respondents failed to include feasible mitigations on significant and
14 unavoidable impacts to recreation, in particular impacts to surfing, beach access, and beach
15 recreation.

16 (l) Respondents' conclusion that the Project's impacts to water quality will be significant
17 and unavoidable is improper and not supported by substantial evidence because Respondents
18 fail to identify and evaluate feasible mitigation measures to address the water quality impacts.
19 The EIR concludes that potential increases in bacteria and nutrients are significant and
20 unavoidable but does not identify mitigation. Without disclosing in the EIR the terms of the
21 Adaptive Management Plan, detailed monitoring requirements, and other feasible mitigation
22 measures, Respondents cannot make a significant and unavoidable finding for water quality
23 impacts.

24 (m) Respondents improperly deferred establishing mitigations addressing impacts to
25 special-status plants and animal species.

26 (n) Respondents' conclusion that the Project's impacts on private parcels along the
27 Estuary shoreline is significant and unavoidable from inundation from water levels of up to 9
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1 feet is improper and not supported by substantial evidence because Respondents fail to
2 identify and evaluate and improperly defer feasible mitigation measures to address the
3 Project's inundation impacts on properties along the lower river.

4 (o) Respondents' conclusion that the Project's cumulative impacts on water, recreation,
5 marine mammals, and inundation of shoreline properties are significant and unavoidable is
6 improper and not supported by substantial evidence because Respondents fail to identify and
7 evaluate and improperly defer feasible mitigation measures to address the identified
8 cumulative impacts.

9 (p) The EIR fails to evaluate a reasonable range of alternatives, including, for example,
10 alternatives incorporating no revisions to existing minimum flow levels at the Hacienda
11 Bridge.

12 (q) Respondents were required to recirculate the EIR in order to provide the public an
13 opportunity to comment on the addition of new information in the final EIR including
14 inadequate discussions of the Project's impacts to the adjacent Marine Life Protection Area.
15 Respondents' decision not to recirculate the EIR is not supported by substantial evidence.

16 (r) Respondents failed to ensure that the Project will comply with other relevant laws
17 prior to Project approval, including but not limited to the federal Clean Water Act and Porter-
18 Cologne Water Quality Control Act.

19 (s) Respondents failed to adopt a legally adequate statement of overriding considerations
20 in that their decision to proceed with the Project despite finding unavoidable significant
21 impacts to water quality and recreational uses was not informed by adequate consideration of
22 feasible mitigations or feasible alternatives, and was not supported by substantial evidence.

23
24 49. Respondents thereby violated their duties to certify an EIR and adopt findings
25 conforming to the requirements of CEQA and the CEQA Guidelines. Accordingly, Respondents'
26 certification of the EIR for the Estuary Project and the decision approving the Estuary Project must be
27 set aside.

28 WHEREFORE, Petitioners demand entry of judgment as follows:

1 1. For a stay of Respondents' decisions certifying the EIR and approving the Estuary
2 Project pending trial.

3 2. For a peremptory writ of mandate directing:

4 a. Respondents to vacate and set aside its certification of the EIR for the Estuary
5 Project and the decision approving the Project.

6 b. Respondents to suspend all activity under the certification of the EIR and
7 approval of the Estuary Project that could result in any change or alteration to the physical
8 environment until Respondents have taken actions that may be necessary to bring the
9 certification and project approval into compliance with CEQA.

10 c. Respondents to prepare, circulate, and consider a new and legally adequate EIR
11 and otherwise to comply with CEQA in any subsequent action taken to approve a
12 management program for the Russian River Estuary.

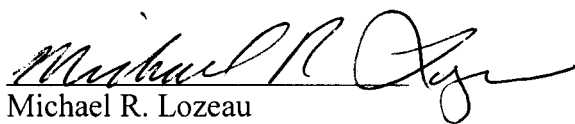
13 3. For its costs of suit.

14 4. For an award of attorney fees pursuant to Code of Civil Procedure § 1021.5.

15 5. For other equitable or legal relief that the Court considers just and proper.
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17
18 Dated: September 14, 2011

LOZEAU DRURY LLP

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21 Michael R. Lozeau
22 Attorney for Petitioner Russian River Watershed
23 Protection Committee
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VERIFICATION

I, Michael R. Lozeau, am an attorney for Petitioner Russian River Watershed Protection Committee in this action. I am verifying this Petition pursuant to California Code of Civil Procedure section 446. Petitioner is located outside of the County of Alameda, where I have my office. I have read the foregoing Petition. I am informed and believe that the matters in it are true and on that ground allege that the matters stated in the Petition are true.

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

Date: September 14, 2011

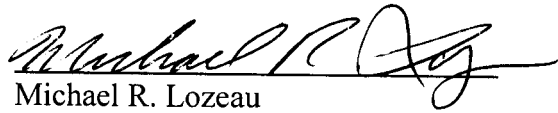

Michael R. Lozeau
Attorney for Petitioner

EXHIBIT A



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BY U.S. MAIL & FACSIMILE TRANSMISSION

September 13, 2011

Board of Directors
Grant Davis, General Manager
Sonoma County Water Agency
404 Aviation Boulevard
Santa Rosa, CA 95403

**RE: Notice of Intent to File Suit Under The California Environmental Quality Act
Regarding Russian River Estuary Management Project**

Dear Board of Directors and Mr. Davis:

I am writing on behalf of the Russian River Watershed Protection Committee ("Committee"), pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 et seq., to notify the Sonoma County Water Agency and its Board of Directors (collectively "Agency") of the Committee's intention to file suit regarding the Agency's adoption and implementation of the Russian River Estuary Management Project Final Environmental Impact Report.

Please take notice, pursuant to Public Resources Code ("PRC") § 21167.5, that the Committee intends to file a Petition for Writ of Mandate ("Petition"), under the provisions of CEQA in the Superior Court for the County of Sonoma challenging the unlawful actions taken by the Agency on August 16, 2011 including (1) certification of the Russian River Estuary Management Project EIR and (2) adoption of the Russian River Estuary Management Project. The League will seek an order vacating the EIR and its accompanying findings and certification, setting aside the Russian River Estuary Management Project, and ordering the Agency to comply with CEQA prior to proceeding with the Project.

The Petition will seek the following relief:

- A. A stay of Respondents' decisions certifying the EIR and approving the Estuary Project pending trial.
- B. The issuance of a peremptory writ of mandate directing:

- a. Respondents to vacate and set aside its certification of the EIR for the project and the decision approving the Estuary Project.
 - b. Respondents to suspend all activity under the certification of the EIR and approval of the Estuary Project that could result in any change or alteration to the physical environment until Respondents have taken actions that may be necessary to bring the certification and project approval into compliance with CEQA.
 - c. Respondents to prepare, circulate, and consider a new and legally adequate EIR and otherwise to comply with CEQA in any subsequent action taken to approve a management program for the Russian River Estuary.
- C. Petitioner's costs of suit.
- D. An award of attorney fees pursuant to Code of Civil Procedure § 1021.5.
- E. Other equitable or legal relief that the Court considers just and proper.

The Committee urges the Agency to rescind its Notice of Determination for the Project, as well as the existing Project approvals, and prepare the appropriate CEQA document for this Project as required by law.

Sincerely,



Michael Lozeau
Lozeau Drury LLP
Attorneys for the Russian River
Watershed Protection Committee

PROOF OF SERVICE

I, Toyer Gear, declare as follows:

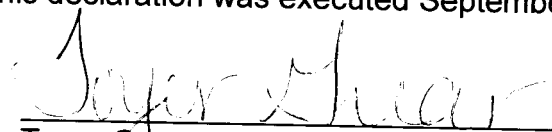
I am a resident of the State of California, and employed in Alameda, California. I am over the age of 18 years and am not a party to the above-entitled action. My business address is 1516 Oak Street, Suite 216, Alameda, California, 94501.

On September 13, 2011, I served a copy of the foregoing document(s) entitled:
**Notice of Intent to File Suit Under The California Environmental Quality Act
Regarding Russian River Estuary Management Project** on the following parties:

Board of Directors
Grant Davis, General Manager
Sonoma County Water Agency
404 Aviation Boulevard
Santa Rosa, CA 95403
Fax: (707)-565-3778 (Board of Directors)
Fax: 707-544-6123 (General Manager)

<input checked="" type="checkbox"/>	BY MAIL. By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid for First Class mail, in the United States mail at Oakland, California addressed as set forth above.
<input checked="" type="checkbox"/>	BY FACSIMILE. By transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed September 13, 2011 at Oakland, California.



Toyer Gear

EXHIBIT B

1 Michael R. Lozeau (CA Bar No. 142893)
2 Richard T. Drury (CA Bar No. 163559)
3 LOZEAU DRURY LLP
4 410 12th Street, Suite 250
5 Oakland, California 95607
6 Tel: (510) 836-4200
7 Fax: (510) 836-4205
8 E-mail: michael@lozeaudrury.com
9 richard@lozeaudrury.com

10 Attorneys for Petitioner Russian River
11 Watershed Protection Committee

12 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
13 IN AND FOR THE COUNTY OF SONOMA

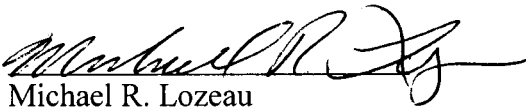
14 RUSSIAN RIVER WATERSHED)	Case No.:
15 PROTECTION COMMITTEE, a public)	
16 benefit corporation,)	PETITIONER'S NOTICE OF INTENT TO
17)	PREPARE ADMINISTRATIVE RECORD
18 Petitioner/Plaintiff,)	(Public Resources Code section 21167.6(b))
19 v.)	
20)	
21 SONOMA COUNTY WATER AGENCY,)	
22 a special district; BOARD OF)	
23 DIRECTORS OF THE SONOMA)	
24 COUNTY WATER AGENCY, a special)	
25 district,)	
26)	
27 Respondent/Defendant/Real party in)	
28 Interest.)	

20 Pursuant to Public Resources Code section 21167.6(b) Petitioner RUSSIAN RIVER
21 WATERSHED PROTECTION COMMITTEE hereby notifies all parties that Petitioner will
22 prepare the administrative record relating to the above-captioned action relating to
23 Respondents SONOMA COUNTY WATER AGENCY's and BOARD OF DIRECTORS OF
24 THE SONOMA COUNTY WATER AGENCY's unlawful adoption of the Russian River
25 Estuary Management Project ("Project") and all findings purporting to support such approval
26 including without limitation those adopting mitigation measures and a mitigation monitoring
27 program, and its certification of the associated Final Environmental Impact Report ("FEIR")
28

1 for the Project in violation of the requirements of CEQA.
2

3 Dated: September 14, 2011

LOZEAU | DRURY LLP

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6 Michael R. Lozeau

7 Attorneys for Petitioner Russian River Watershed Protection
8 Committee
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EXHIBIT C

1 Michael R. Lozeau (CA Bar No. 142893)
Richard T. Drury (CA Bar No. 163559)
2 LOZEAU DRURY LLP
3 410 12th Street, Suite 250
Oakland, California 95607
4 Tel: (510) 836-4200
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5 E-mail: michael@lozeaudrury.com
richard@lozeaudrury.com

6 Attorneys for Petitioner Russian River
7 Watershed Protection Committee

8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF SONOMA

10 RUSSIAN RIVER WATERSHED) Case No.:
11 PROTECTION COMMITTEE, a public)
benefit corporation,) NOTICE TO ATTORNEY GENERAL
12)
13 Petitioner/Plaintiff,) (Public Resources Code § 21167.7, Code of
v.) Civil Procedure § 388)
14)
15 SONOMA COUNTY WATER AGENCY,)
a special district; BOARD OF)
16 DIRECTORS OF THE SONOMA)
COUNTY WATER AGENCY, a special)
17 district,)
18)
Respondent/Defendant/Real party in)
19 Interest.)

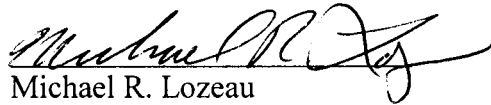
20 To the Attorney General of the State of California:

21 PLEASE TAKE NOTICE, under Public Resources Code section 21167.7 and Code of Civil
22 Procedure section 388, that on September 14, 2011 Petitioner Russian River Watershed Protection
23 Committee (“Petitioner” or “Committee”) filed a verified petition for writ of mandate (“Petition”)
24 against Respondents Sonoma County Water Agency and the Board of Directors of the Sonoma County
25 Water Agency (“Respondents” or “SCWA”) in the Sonoma County Superior Court. The Petition
26 alleges that SCWA violated the California Environmental Quality Act (“CEQA”), Public Resources
27 Code § 21000 *et seq.*, in connection with its adoption of the Russian River Estuary Management Project
28 (“Project”) and all findings purporting to support such approval including without limitation those

1 adopting mitigation measures and a mitigation monitoring program, and its certification of the
2 associated Russian River Estuary Management Project Final Environmental Impact Report for the
3 Project. A copy of the Petition is attached to this notice.

4
5 Dated: September 14, 2011

LOZEAU | DRURY LLP

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8 Michael R. Lozeau
9 Attorneys for Petitioner Russian River
10 Watershed Protection Committee
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