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EL DORADO CO. SUPERIOR CT

FILED JUN 06 2008

BY E. Romero
Deputy

6 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

7 IN AND FOR THE COUNTY OF EL DORADO

8 PC 20080336

9 CENTER FOR SIERRA NEVADA)
CONSERVATION, a non-profit corporation and)
10 EL DORADO COUNTY TAXPAYERS FOR)
QUALITY GROWTH, a non-profit corporation,)
11 and CALIFORNIA OAK FOUNDATION, a non-)
profit corporation)

12 Petitioners and Plaintiffs)

13 vs.)

14 COUNTY OF EL DORADO; BOARD OF)
SUPERVISORS OF EL DORADO COUNTY,)
and DOES 1 through 10, inclusive)

15 Respondents and Defendants)
16

Case No. _____

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

[Action Includes Claims under
California Environmental Quality Act
(CEQA)]

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I. INTRODUCTION

1. Petitioners and Plaintiffs Center for Sierra Nevada Conservation, El Dorado County Taxpayers for Quality Growth and California Oak Foundation ("Petitioners") hereby challenge the approval by the County of El Dorado and El Dorado County Board of Supervisors (together the "County") of the Oak Woodland Management Plan ("OWMP") and its implementing ordinance as contrary to the County's General Plan requirements for protection of oak woodlands, as set forth more fully below. Petitioners also challenge the County's compliance with the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 *et seq.*, in adopting the OWMP and ordinance. Petitioners also challenge the County's adoption of the OWMP and ordinance as inconsistent with, and thus a breach of, the Settlement Agreement between the County and Petitioners Center for Sierra Nevada Conservation and El Dorado County Taxpayers for Quality Growth, which settled the litigation in *El Dorado County Taxpayers for Quality Growth et al. v. El Dorado County Board of Supervisors* (Case No. 96 CS 01290).

2. Petitioners challenge the County's approval of the OWMP and ordinance because the County's actions do not ensure that oak woodlands will be protected in the future in the County or that development impacts to oak woodland habitat and habitat connectivity will be fully mitigated, as required by the County General Plan. Petitioners seek mandamus relief that the County's action constitutes an abuse of discretion and thus is contrary to law. Code Civ. Proc. §§ 1060; 1094.5; Pub. Res. Code § 21168.

II. PARTIES & JURISDICTION

3. Petitioner Center for Sierra Nevada Conservation ("CSNC") is a California nonprofit 501(c)(3) corporation whose principle place of business is 8800 Snug Harbor Rd., Georgetown, California.. CSNC focuses on private and public forestry issues, off-road vehicle management, county land use and planning, and wildlife and plant protection issues throughout the Sierra Nevada foothills and mountains.

4. Petitioner El Dorado County Taxpayers for Quality Growth ("Quality Growth") was incorporated under the laws of the State of California in December 1994. Quality Growth is a California non-profit 501(c)4 corporation whose principle place of business is 4180 Misty Creek,

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1 giving rise to this Petition. The County's address is 330 Fair Lane, Placerville California.

2 8. The true names and capacities of Respondent Does 1-10 are not presently known to
3 Petitioners. Petitioners may amend this Petition to add the true names and capacities of said Does
4 at such time as they are discovered.

5 III. JURISDICTION AND EXHAUSTION OF REMEDIES

6 9. Jurisdiction of this court is invoked pursuant to Code of Civil Procedure § 1060, 1094.5 &
7 Public Resources Code § 21168.

8 10. Petitioners have performed any and all conditions precedent to filing this instant action
9 and have exhausted any and all available administrative remedies to the extent required by law.
10 Petitioners objected to the County's approval of the Project prior to the close of the public hearing
11 on the Project before Respondent's issuance of its notice of determination.

12 11. On June 5, 2008, Petitioners' attorney faxed to Respondent the Notice of Commencement
13 of Action required by Public Resources Code § 21167.5, giving notice of Petitioners' intent to file
14 this Petition (See Exhibit 1, attached hereto.)

15 12. Petitioners' attorney has served a copy of this Petition on the Attorney General's office to
16 give notice of Petitioners' intent to bring this proceeding as a private attorney general under Code
17 of Civil Procedure section 1021.5. (See Exhibit 2, attached hereto.)

18 13. Petitioners have no other adequate remedy in the course of ordinary law unless this Court
19 grants the requested writ of mandate to require the County to set aside their approval of the
20 OWMP. In the absence of such remedies, the County's approval will remain in effect in violation
21 of state law.

22 IV. FACTUAL BACKGROUND

23 A. General Plan Policies

24 14. The Oak Woodland Management Plan ("OWMP") is intended to comply with policies 7.4.4.4,
25 7.4.4.5, and 7.4.2.8 and Measure CO-P as prescribed in the County's 2004 General Plan.

26 15. Policy 7.4.4.4 requires that all new development projects that would result in soil disturbance
27 on parcels that (1) are over an acre and have at least 1 percent total canopy cover or (2) are less than
28 an acre and have at least 10 percent total canopy cover by woodlands habitats shall require one of two

1 Pilot Hill, California. Quality Growth focuses on educating the public concerning the effects of
2 urban development projects on the rural quality of life for existing and future residents of El
3 Dorado County, to facilitate public input into the land and water use planning processes and to
4 defend the public interest in environmental quality.

5 5. Petitioner California Oak Foundation is a non-profit, tax-exempt corporation dedicated to
6 protecting and perpetuating California's native oak woodlands and the wildlife habitat and
7 watershed benefits they provide. The California Oak Foundation, a statewide membership
8 organization, provides technical assistance and educational material to those engaged in protecting
9 oak woodlands and planting oak trees. The California Oak Foundation also works to encourage
10 adoption of state and local laws protecting oaks. The conservation, restoration and education
11 programs of the Foundation serve citizens in all areas - rural, suburban, urban. Members of the
12 California Oak Foundation are interested in the aesthetic enjoyment and continued productivity of
13 the land, in the preservation of the genus Quercus, and of the wildlife and associated recreational
14 values accompanying the preservation of oaks in California and in environmental protection.

15 6. Each Petitioner has members who utilize local parks and land located in El Dorado County
16 containing oak woodlands. The incremental impacts to this ecosystem that could occur due to the
17 County's adoption of the OWMP will individually harm Petitioners' members who are
18 beneficially interested in the aesthetic enjoyment and continued productivity of oak woodlands in
19 the County, and in the preservation of wildlife species at self-perpetuating population levels that
20 rely on oak woodland habitat. Petitioners' members have a fundamental interest in living in a high
21 quality environment with wildlife species preserved at self-perpetuating population levels and
22 Petitioners' members gain aesthetic enjoyment and spiritual sustenance from living in a world
23 where natural values are respected and preserved., including the maintenance of oak woodlands in
24 the County.

25 7. Respondent El Dorado County is and was at all times relevant to this action the
26 governmental entity responsible for approving the OWMP and ordinance. Respondent and
27 Defendant El Dorado County Board of Supervisors is and was at all times relevant to this action
28 the legislative and adjudicatory body of El Dorado County with responsibility for the actions

1 mitigation options: (A) the project applicant shall adhere to tree canopy retention and replacement
2 standards described in the Policy; or (B) the project applicant shall contribute to the County's
3 Integrated Natural Resources Management Plan (INRMP) conservation fund described in Policy
4 7.4.2.8.

5 16. Under Option A, the project applicant shall also replace woodland habitat removed at 1:1
6 ratio. Impacts on woodland habitat and mitigation requirements shall be addressed in a Biological
7 Resources Study and Important Habitat Mitigation Plan as described in Policy 7.4.2.8. Woodland
8 replacement shall be based on a formula, developed by the County, that accounts for the number of
9 trees and acreage affected.

10 17. Under Option B, the project applicant shall provide sufficient funding to the County's INRMP
11 conservation fund, described in Policy 7.4.2.8, to fully compensate for the impact to oak woodland
12 habitat. To compensate for fragmentation as well as habitat loss, the preservation mitigation ratio
13 shall be 2:1 and based on the total woodland acreage onsite directly impacted by habitat loss and
14 indirectly impacted by habitat fragmentation. The costs associated with acquisition, restoration, and
15 management of the habitat protected shall be included in the mitigation fee. Impacts on woodland
16 habitat and mitigation requirements shall be addressed in a Biological Resources Study and Important
17 Habitat Mitigation Plan as described in Policy 7.4.2.8.

18 18. Policy 7.4.4.5 states: " Where existing individual or a group of oak trees are lost within a
19 stand, a corridor of oak trees shall be retained that maintains continuity between all portions of the
20 stand. The retained corridor shall have a tree density that is equal to the density of the stand."

21 19. Policy 7.4.2.8 requires the County within five years of General Plan adoption to develop and
22 implement an INRMP that identifies important habitat in the County and establishes a program for
23 effective habitat preservation and management. The INRMP shall include a "Habitat Inventory,"
24 which requires an inventory and mapping of important habitats in El Dorado County including
25 habitats that support special status species, important habitat for migratory deer herds; and large
26 expanses of native vegetation. The County should update the inventory every three years to identify
27 the amount of important habitat protected, by habitat type, through County programs and the amount
28 of important habitat removed because of new development during that period.

1 20. The INRMP shall also include a "Habitat Protection Strategy," which shall describe a strategy
2 for protecting important habitats based on coordinated land acquisitions and management of acquired
3 land. The goal of the strategy shall be to conserve and restore contiguous blocks of important habitat
4 to offset the effects of increased habitat loss and fragmentation elsewhere in the county.
5 Consideration of wildlife movement will be given by the County on all future 4- and 6-lane roadway
6 construction projects. When feasible, natural undercrossings along proposed roadway alignments that
7 could be utilized by terrestrial wildlife for movement will be preserved and enhanced.

8 21. The INRMP shall also include programs for "Mitigation Assistance" (Section C) and "Habitat
9 Acquisition (Section D). "In evaluating proposed acquisitions, consideration will be given to site
10 specific features (e.g., condition and threats to habitat, presence of special status species), transaction
11 related features (e.g., level of protection gained, time frame for purchase completion, relative costs),
12 and regional considerations (e.g., connectivity with adjacent protected lands and important habitat,
13 achieves multiple agency and community benefits). Parcels that include important habitat and are
14 located generally to the west of the Eldorado National Forest should be given priority for acquisition.
15 Priority will also be given to parcels that would preserve natural wildlife movement corridors such
16 as crossing under major roadways (e.g., U.S. Highway 50 and across canyons). All land acquired shall
17 be added to the Ecological Preserve overlay area." The INRMP shall also include programs for
18 habitat management (Section E), monitoring (Section F), public participation (Section G) and funding
19 (Section H).

20 22. Measure CO-P is the County General Plan implementation measure to protect oak woodlands.
21 This measure requires the County to develop and adopt an Oak Resources Management Plan, which
22 shall address 1) Mitigation standards outlined in Policy 7.4.4.4; 2) Thresholds of significance for the
23 loss of oak woodlands; 3) Requirements for tree surveys and mitigation plans for discretionary
24 projects; 4) Replanting and replacement standards; 5) Heritage/landmark tree protection standards;
25 and 6) An Oak Tree Preservation Ordinance as outlined in Policy 7.4.5.1. Measure CO-P is to be
26 implemented within two years of General Plan Adoption.

27 23. Policy 7.4.2.9 of the General Plan also requires the County to develop an "Important
28 Biological Corridor" (IBC) overlay, which shall apply to lands identified as having high wildlife

1 habitat values because of extent, habitat function, connectivity, and other factors. Lands located
2 within the overlay district shall be subject to the zoning measures designed to preserve important
3 habitat values, including "increased minimum parcel size and higher canopy-retention standards
4 and/or different mitigation standards/thresholds for oak woodlands."

5 **B. Description of Oak Woodland Management Plan**

6 24. The OWMP defines the County's conservation strategy for oak woodland resources and
7 implements Policy 7.4.4.4 of the County General Plan. The Plan states that it constitutes the oak
8 portion of the County's INRMP. The stated purpose of the OWMP is "to outline the County's
9 strategy for conservation of its valuable oak woodland resources." The OWMP outlines the County's
10 approach for conserving its oak woodland resources and identifies specific oak woodland
11 conservation areas and methods for the County to implement an oak woodland ordinance that fulfills
12 the requirements of the General Plan and EIR.

13 25. The OWMP encompasses oak woodlands below 4,000 feet elevation, which were also
14 addressed in the 2004 General Plan. The General Plan EIR identifies five oak woodland types: 1) Blue
15 Oak Woodland; 2) Blue Oak-Foothill Pine; 3) Montane Hardwood Woodland; 4) Montane
16 Hardwood-Conifer Woodland and 5) Valley Oak Woodland.

17 26. The OWMP implements Option A, Policy 7.4.4.4 by stating: "[A]ll oak canopy removed for
18 development must be replaced at a 1:1 ratio. In lieu of on-site replacement, where such replacement
19 is not feasible due to soil/habitat considerations and/or land use constraints or not desirable by the
20 applicant, off-site mitigation may be substituted for replacement plantings by payment of the
21 Conservation Fund In-Lieu Fee at a 1:1 canopy surface area ratio or dedication of an off-site
22 conservation easement as described in Section 4.C, also at a 1:1 ratio. Off-site replacement at a 1:1
23 ratio is offered to avoid circumstances that would result in replacement plantings occurring in
24 marginal habitat or at the expense of other existing habitat."

25 27. The OWMP implements Option B, Policy 7.4.4.4 by stating this mitigation alternative is
26 intended to preserve existing oak woodland canopy of equal or greater biological value as those lost.
27 "To compensate for both habitat loss and fragmentation, the preservation mitigation ratio was set at
28 2:1 based on the acreage of oak canopy affected. For purposes of the fee program, the standard for

1 off-site mitigation under Option B is payment of the Conservation Fund In-Lieu fee at a ratio of 2:1.
2 In other words, for each acre of oak canopy that is lost, the payment is the fee per acre multiplied by
3 two. "

4 28. The OWMP also allows an applicant for a development project to comply with the provisions
5 of Policy 7.4.4.4 by meeting the retention and 1:1 replacement requirements of Option A, providing
6 off-site mitigation through the payment of the OWMP fee as established by the OWMP and the
7 implementing fee ordinance, or a combination of the two provisions. The OWMP also permits
8 dedication of off-site conservation easements outside of the PCAs as a means to comply with Option
9 B. In that case, "a biological study shall be required for the off-site mitigation location to demonstrate
10 that the site is of equal or greater biological value as the oak woodland proposed to be removed. The
11 biological study shall evaluate and demonstrate parity of habitat elements such as snags, large woody
12 debris, and the diversity and structure of the understory between the oak woodlands lost and those
13 being protected."

14 29. The OWMP also identifies Priority Conservation Areas (PCAs) for conservation of oak
15 woodlands. However, the OWMP does not identify any PCAs within areas designated for
16 development. The OWMP states: "Such areas are less desirable for mitigation lands because they are
17 more expensive, have reduced habitat values, and would conflict with approved General Plan land
18 use designations. Subsequent adoption and implementation of the INRMP, and incorporation of this
19 plan into that document, will ensure connectivity between the PCAs. The INRMP will also address
20 north-south connectivity across Highway 50 and the potential role of oak woodlands less than 40
21 acres in maintaining connectivity between larger expanses of oak woodlands. Existing public lands,
22 Important Biological Corridors as identified on the 2004 General Plan land use diagram, and stream
23 setback requirements provided under Policy 7.3.3.4 provide sufficient interim connectivity to provide
24 wildlife movement between the PCAs."

25 30. The OWMP Appendix explains that future development projects may tier to OWMP standards
26 as adequate mitigation under CEQA. "If the County determines that the project could potentially have
27 a significant effect, the County is required to conduct a review of the proposed project, pursuant to
28 the California Environmental Quality Act. This review will include potential effects to the oak

1 woodland resources as addressed in this plan. Once the extent and severity of the impacts are
2 determined, the mitigation standards of PRC §21083.4 and Policy 7.4.4.4 Option A and /or Option
3 B will be applied as described in the OWMP. With respect to oaks and oak woodlands, compliance
4 with the OWMP will constitute mitigation.”

5 **C. Settlement Agreement on Prior General Plan Litigation**

6 31. In April 2006, the County and a group of petitioners, including Petitioners in this action
7 Center for Sierra Nevada Conservation and El Dorado County Taxpayers for Quality Growth, settled
8 the litigation in *El Dorado County Taxpayers for Quality Growth et al. v. El Dorado County Board*
9 *of Supervisors* (Case No. 96 CS 01290). This litigation was originally filed in 1996. In response to
10 a 1999 Writ of Mandate issued by the Superior Court, the County adopted a new General Plan and
11 certified an environmental impact report (“EIR”) for the Plan on July 19, 2004. Subsequently the
12 County filed a Return to the Writ with the superior court.

13 32. On August 19, 2004, petitioners filed a Motion for Review of the County’s Return to the Writ,
14 which challenged the County’s compliance with the 1999 Writ and made new legal claims. One of
15 the issues raised in the Return to the Writ phase of the litigation concerned the effect of General Plan
16 Policy 7.4.4.4 relating to the protection of the oak woodlands.

17 33. As part of the settlement, the County stated its position that under existing Policy 7.4.4.4., the
18 County may require development projects to undertake mitigation Option B (contribution to a
19 conservation fund) in lieu of Option A only after the County had adopted the “oak woodland portion
20 of the Integrated Natural Resources Management Plan described in General Plan Policy 7.4.2.8.” In
21 exchange for petitioners agreeing to dismiss their appeal and settle the case, the County agreed to
22 maintain its interpretation of General Plan Policy 7.4.2.8 as described above.

23 **D. County’s Adoption of Oak Woodland Management Plan**

24 34. On or about February 11, 2008, the County circulated a negative declaration for the Project
25 for a 30 day comment period, which closed on or about March 10, 2008. On or about March 13,
26 2008, the El Dorado County Planning Commission held a public hearing on the Project. On or about
27 May 6, 2008, the El Dorado County Board of Supervisors adopted three items: 1) the Negative
28 Declaration; 2) the Oak Woodland Management Plan as amended by the Board of Supervisors at the

1 April 22, 2008 and the May 6, 2008 meetings; and 3) the Oak Woodland Management Pla
2 Implementing Ordinance (including fees) as amended at the May 22, 2008 and May 6, 2008 meetings

3 35. On May 9, 2008, the Board of Supervisors filed a Notice of Determination for the Project.

4 36. Petitioners provided comments on the OWMP, ordinance and the accompanying negative
5 declaration, and attended and testified at hearings before the County Planning Commission and Board
6 of Supervisors.

7 V. FIRST CAUSE OF ACTION

8 (Violations of CEQA in Adoption of OWMP; Code Civ. Proc. § 1094.5)

9 37. Petitioners incorporate by reference the allegations set forth in the paragraphs set forth above.

10 38. Respondents prejudicially abused their discretion in approving the OWMP and ordinance in
11 a manner contrary to CEQA by adopting a negative declaration for the project even though evidence
12 was submitted supporting a fair argument that the project could have significant cumulative impacts
13 on oak woodlands, oak woodland habitat, and recreational and biological resources that depend on
14 such habitat.

15 39. Respondents prejudicially abused their discretion in approving the OWMP and ordinance in
16 a manner contrary to CEQA by failing to accurately describe the environmental setting, including
17 but not limited to the importance of oak woodland habitat within the vicinity of the Highway 50
18 corridor for wildlife corridors and oak woodland connectivity.

19 40. Respondents prejudicially abused their discretion in approving the OWMP and ordinance in
20 a manner contrary to CEQA by failing to accurately describe the regulatory setting, including but not
21 limited to the requirements of the General Plan policies as they relate to oak woodlands. *See* Policies
22 7.4.2.8, 7.4.2.9; 7.4.4.4.

23 41. Respondents prejudicially abused their discretion in approving the OWMP and ordinance in
24 a manner contrary to CEQA by purporting to tier to the General Plan EIR as part of the County's
25 adoption of a negative declaration even though 1) the County's General Plan found future
26 development impacts to be significant; and 2) the OWMP and ordinance are inconsistent with the
27 mitigation analyzed in the General Plan EIR.

28 42. Respondents prejudicially abused their discretion in approving the OWMP and ordinance in

1 a manner contrary to CEQA by deferring identification of important habitats for wildlife and habitats
2 connectivity until after approval of the OWMP.

3 43. Respondents prejudicially abused their discretion in approving the OWMP and ordinance
4 without considering an alternative that identifies oak woodland habitat providing important
5 connectivity for wildlife habitat and which utilizes actual amount of oak woodland habitat as the
6 measure of mitigation rather than oak canopy coverage.

7 **VI. SECOND CAUSE OF ACTION**
8 **(Violations of County General Plan; Code Civ. Proc. § 1094.5)**

9 44. Petitioners incorporate by reference the allegations set forth in the paragraphs set forth above.

10 45. Any aspect of the project that conflicts or frustrates specific General Plan policies may not
11 be approved. *See Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541;
12 *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal.
13 App.4th 1332, 1340-1342; *Napa Citizens for Honest Government v. Napa County Board of*
14 *Supervisors* (2001) 91 Cal. App.4th 342, 379; *Orinda Assn. v. Board of Supervisors* (1986) 182 Cal.
15 App.3d 1145, 1162, fn. 10.

16 46. Respondents prejudicially abused their discretion in adopting the OWMP and ordinance due
17 to their inconsistency with General Plan Policies 7.4.2.8, 7.4.2.9, 7.4.4.4 and 7.4.4.5 and their
18 implementing measures. The OWMP and ordinance are inconsistent with these sections because
19 they do not protect and preserve oak woodland habitat in the County. The OWMP and ordinance
20 do not ensure that loss of oak woodland habitat is fully mitigated because they allow for off-site
21 mitigation in a manner that does not retain the amount and similar biological value of oak woodland
22 habitat that is required under the General Plan. The OWMP and ordinance also do not ensure oak
23 woodland connectivity and protection of important oak woodland habitat, including corridor habitat
24 around and adjacent to Highway 50. The OWMP and ordinance also do not meet the minimum
25 standards for the INRMP, as set forth in General Plan Policy 7.4.2.8, and do not accommodate the
26 Important Biological Corridor overlay required under Policy 7.4.2.9.

27 **VII. THIRD CAUSE OF ACTION**
28 **(Breach of Settlement Agreement; Declaratory and Injunctive Relief)**

47. Petitioners incorporate by reference the allegations set forth in the paragraphs set forth above.

1 48. Through its approval of the OWMP and Ordinance, the County intends to fulfill th
2 requirement under the County's Settlement Agreement in *El Dorado County Taxpayers for Qualit*
3 *Growth et al. v. El Dorado County Board of Supervisors* (Case No. 96 CS 01290). In that case,
4 the County agreed that it could not permit development projects to undertake mitigation Option E
5 offsite mitigation in lieu of Option A until the County had adopted the "oak woodland portion of the
6 Integrated Natural Resources Management Plan described in General Plan Policy 7.4.2.8."

7 49. The County intends to rely on its approval of the OWMP and ordinance to allow for future
8 development to utilize the Option B offsite mitigation alternative for protecting oak woodlands.
9 However, as discussed above, the County's approval of the OWMP and Ordinance is inconsistent
10 with the County General Plan, including Policy 7.4.2.8 and the INRMP requirements. Thus the
11 County's actions and intent to proceed constitute a breach of the Settlement Agreement.

12 50. Petitioners seeks declaratory relief under Code of Civil Procedure § 1060 that the County's
13 approval of the OWMP and ordinance do not satisfy the requirements of the Settlement Agreement
14 and injunctive relief prohibiting the County from relying on this approval to allow for development
15 in oak woodland habitat to utilize the Option B alternative until such time as the County complies
16 with the requirements of the County General Plan.

17 VIII. PRAYER FOR RELIEF

18 WHEREFORE, Petitioner prays for judgment as follows:

19 1. For a Peremptory Writ of Mandate ordering the County to withdraw approval of the
20 OWMP and ordinance and to follow CEQA and the County General Plan in taking any further action
21 with respect to these matters.

22 2. For a permanent injunction enjoining the County from utilizing General Plan Policy
23 7.4.4.4 Option B to approve development projects in oak woodland habitat until such time as the
24 County has adopted an OWMP in conformance with applicable law, including but not limited to
25 General Plan Policy 7.4.2.8.

26 3. For reasonable attorney's fees under California Code of Civil Procedure section
27 1021.5.

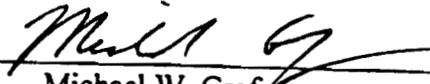
28 4. For costs of suit.

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

DATED: June 5, 2008

LAW OFFICES

By: 
Michael W. Graf
Attorneys for Petitioners