

1 Babak Naficy (State Bar No. 177709)  
2 Jamie Garretson (State Bar No. 306947)  
3 LAW OFFICE OF BABAK NAFICY  
4 1540 Marsh Street, Suite 110  
5 San Luis Obispo, CA 93401  
6 Telephone: (805) 593-0926  
7 Facsimile: (805) 593-0946  
8 [babaknaficy@sbcglobal.net](mailto:babaknaficy@sbcglobal.net)

9 Jonathan Evans (State Bar No. 247376)  
10 CENTER FOR BIOLOGICAL DIVERSITY  
11 1212 Broadway, Suite 800  
12 Oakland, CA 94612  
13 Telephone: (510) 844-7100  
14 Facsimile: (805) 593-046  
15 Email: [jevans@biologicaldiversity.org](mailto:jevans@biologicaldiversity.org)

16 Attorneys for Petitioners:  
17 SIERRA CLUB, CENTER FOR BIOLOGICAL DIVERSITY,  
18 and ASSOCIATION OF IRRITATED RESIDENTS

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
20 **FOR THE COUNTY OF TULARE**

21 SIERRA CLUB, CENTER FOR  
22 BIOLOGICAL DIVERSITY, and  
23 ASSOCIATION OF IRRITATED RESIDENTS

24 Plaintiffs/Petitioners,

25 vs.

26 COUNTY OF TULARE, and TULARE  
27 COUNTY BOARD OF SUPERVISORS, and  
28 DOES 1-25, inclusive,

Defendants/Respondents.

CASE NO.

**PETITION FOR PEREMPTORY WRIT OF  
MANDATE AND COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

C.C.P. §§1085, 1094.5 & §1021.5; Pub. Res.  
Code §§ 21000 et seq.

Environmental Law - CEQA

Petitioner hereby alleges as follows:

**I. INTRODUCTION**

1. SIERRA CLUB, CENTER FOR BIOLOGICAL DIVERSITY, and ASSOCIATION OF IRRITATED RESIDENTS (collectively, "Petitioners") petition this Court for a writ of mandate and Order under Code of Civil Procedure §1094.5 and §1085, directed to Respondents, COUNTY OF

1 TULARE and TULARE COUNTY BOARD OF SUPERVISORS, (collectively, “Respondents” or the  
2 “County”), setting aside Respondents’ certification of an Environmental Impact Report (“EIR”) for an  
3 Animal Confinement Facilities Plan (“ACFP”) and the related General Plan Amendment and zoning  
4 change, and approval of a Dairy Feedlot and Dairy Climate Action Plan (“CAP”) (collectively, the  
5 “Project”).

6  
7 2. As set forth below, Petitioners contend Respondents violated the California  
8 Environmental Quality Act (“CEQA”) because, *inter alia*, the EIR fails to adequately describe the  
9 Project baseline, and does not include adequate and enforceable mitigation measures.

10 **II. THE PARTIES**

11 3. Petitioner and Plaintiff, SIERRA CLUB, is a California non-profit membership  
12 organization that is concerned with protection of the environment and government compliance with  
13 environmental laws. Some members of the Sierra Club reside or work in Tulare County, in the vicinity  
14 of the project. Sierra Club brings this action on its own behalf, for its members, and in the public  
15 interest.

16  
17 4. Petitioner and Plaintiff the CENTER FOR BIOLOGICAL DIVERSITY (“Center”) is a  
18 non-profit, public interest corporation with over 63,000 members with offices in San Francisco, Los  
19 Angeles, and Joshua Tree, California, as well as offices in Arizona, Florida, Hawaii, Mexico,  
20 Minnesota, New York, Oregon, Vermont, Washington and Washington, D.C. The Center and its  
21 members are dedicated to protecting diverse native species and habitats through science, policy,  
22 education, and environmental law. Center members reside in and own property throughout California  
23 as well as Tulare County. The Center and its members would be directly, adversely and irreparably  
24 harmed by the Projects and its components, as described herein, until and unless this Court provides  
25 the relief prayed for in this petition. The Center brings this action on its own behalf, for its members,  
26 and in the public interest.  
27  
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1 effects. Any further attempts to pursue administrative remedies would be futile.

2 10. Petitioners have complied with the requirements of Public Resources Code section  
3 21167.5 by providing written notice of the commencement of this action to Respondents prior to filing  
4 this petition and complaint. A true and correct copy of the Notice to Intent to Commence Litigation is  
5 attached hereto as "Exhibit A".  
6

7 11. Petitioners have complied with the requirements of Public Resources Code section  
8 21167.7 and Code of Civil Procedure section 388 by mailing a copy of the Petition/Complaint to the  
9 state Attorney General.

10 12. Petitioners have complied with the requirements of Public Resources Code section  
11 21167.6 by concurrently notifying Respondents of Petitioners' election to prepare the record of  
12 administrative proceedings relating to this action.  
13

14 13. Petitioners have no plain, speedy or adequate remedy in the ordinary course of law  
15 unless this Court grants the requested writ of mandate to require Respondents to comply with their  
16 duties and set aside the approval of the project until they have prepared a legally sufficient EIR. In the  
17 absence of such remedies, Respondents' approvals will remain in effect in violation of CEQA.

18 14. If Respondents are not enjoined from approving the Project, and from undertaking acts  
19 in furtherance thereof, Petitioners will suffer irreparable harm from which there is no adequate remedy  
20 at law in that the Project area and surrounding areas would be irrevocably altered and significant  
21 adverse impacts on the environment would occur. Petitioners and the general public have also been  
22 harmed by Respondents' failure to provide an environmental document that accurately and fully  
23 informs interested persons of the Project's impacts.  
24

25 15. In pursuing this action, which involves enforcement of important rights affecting the  
26 public interest, Petitioners will confer a substantial benefit on the general public, residents of Tulare  
27 County and the State of California, and will therefore be entitled to attorneys' fees and costs pursuant  
28

1 to, *inter alia*, Code of Civil Procedure §1021.5.

2 16. Petitioners bring this action in part pursuant to Public Resources Code §21168.5 and  
3 Code of Civil Procedure §1085 or §1094.5, which require that an agency's approval of a project be set  
4 aside if the agency has prejudicially abused its discretion. Prejudicial abuse of discretion occurs either  
5 where an agency has failed to proceed in a manner required by law or where its determination or  
6 decision is not supported by substantial evidence. Respondents have prejudicially abused their  
7 discretion because Respondents have failed to proceed according to the law, and their decision is not  
8 supported by substantial evidence.  
9

10 **III. STATEMENT OF FACTS**

11 17. The dairy industry in Tulare County is a multi-billion dollar industry. DIER at p. 53.  
12 According to the County, the ACFP was intended to “revise the way dairies are regulated....” County  
13 Findings, at 564. More specifically, the ACFP is intended to streamline local permitting for new and  
14 expanded dairies, and to “improve the way dairies and other bovine confinement facilities and  
15 regulated....” Ibid.  
16

17 18. In other words, the changes implemented by the ACFP were intended to make approval  
18 of new or expanded dairies quicker and easier. These revisions were also intended to make it easier to  
19 keep track of existing dairies. The EIR admits that the County has been unable to ensure that all  
20 existing animal confinement operations are operating with valid permits and have undergone  
21 expansions with valid approvals. DIER at 18, 47  
22

23 19. In connection with the ACFP, the County also prepared a dairy and feedlot CAP, which  
24 includes an inventory of greenhouse gas (“GHG”) emissions for the year 2013, which the County has  
25 selected as the “baseline year” for the purpose of environmental review. The CAP also includes GHG  
26 forecasts for the year 2023, and includes certain GHG reduction strategies and measures intended to  
27 facilitate the streamlining approval of new and expanded dairies. Ibid.  
28

1           20.     The County’s adoption of the ACFP included adoption of a General Plan amendment  
2 and corresponding zoning amendment. (Zoning Amendment No PZC 17-040).

3           21.     The County also prepared and certified a programmatic EIR, and adopted CEQA  
4 findings and a Statement of Overriding Considerations.

5           22.     The Project area includes the western approximate one-third of Tulare County, and  
6 contains almost all of the County’s animal confinement facilities. The County itself includes a diverse  
7 geography which includes Sierra Nevada peaks on the east, which turns to westerly foothills  
8 transitioning gradually to the floor of San Joaquin Valley floor, where most of the animal confinement  
9 facilities are located. CEQA Findings, at p. 565.

10           23.     While the ACFP and the EIR claim the ACFP was intended at least in part to help the  
11 County better regulate the existing dairies, the evidence in the record shows the County was primarily  
12 concerned with facilitating “growth in the dairies and feedlots (bovine facilities) through expansion of  
13 existing facilities and the establishment of new facilities for a ten-year period between 2013 and  
14 2023.” Ibid.

15           24.     The County claims the total bovine head count have hovered around slightly higher  
16 than 1 million, but hopes and expects the ACFP would help increase this number to about 1.2 million  
17 by 2023. According to the EIR, on the total projected growth is limited in part by siting constraints  
18 that limit the number of new and expanding feedlots to approximately 80,493 acres throughout the  
19 County. Ibid. Significantly, however, the County has made it clear that it does not intend to impose  
20 any limits on dairy expansions even if the total growth by 2023 were to exceed the targeted 1.5%  
21 growth. The ACFP and the EIR’s description and discussion of the 1.5% growth rate are unclear and  
22 inconsistent. While at times the EIR claims the 1.5% growth rate is nothing but a projection, the  
23 EIR’s consideration and ultimate rejection of a 1% growth rate alternative shows the County and the  
24 EIR considered the 1.5% growth rate not to be merely a projection, but a intended target.  
25  
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1           27.     The lead agency must identify all potentially significant impacts of the project, and  
2 must therefore consider all the evidence in the administrative record. Pub. Res. C. §21080 (c), (d),  
3 §21082.2. CEQA Guidelines direct lead agencies to conduct an Initial Study to “determine if the  
4 project may have a significant on the environment.” CEQA Guidelines §15063(a). “All phases of the  
5 project planning, implementation, and operation must be considered in the Initial Study”. CEQA  
6 Guidelines §15063(a)(1). Besides the direct impacts, the lead agency must also consider reasonably  
7 foreseeable indirect physical changes in the environment in the area in which significant effects would  
8 occur, directly or indirectly. See CEQA Guidelines §15064(d) & §15360, see, also, Laurel Heights  
9 Improvement Assn, supra, 47 Cal. Ed at 392.

11           28.     An indirect impact is a physical change in the environment, not immediately related to  
12 the project in time or distance, but caused indirectly by the project and reasonably foreseeable. CEQA  
13 Guidelines §15064(d)(2) and §15358(a)(2). Indirect impacts to the environment caused by a project’s  
14 economic or social effects must be analyzed if they are “indirectly caused by the project, are  
15 reasonably foreseeable, and are potentially significant.” CEQA Guidelines §15064(d)-(e). A lead  
16 agency may not limit environmental disclosure by ignoring the development or *other activity* that will  
17 ultimately result from an initial approval. City of Antioch v. City Council (1986) 187 CA3d 1325  
18 (emphasis added).

21           29.     Where the CEQA environmental process was procedurally or substantively defective,  
22 reviewing courts may find prejudicial abuse of discretion even if proper adherence to CEQA mandates  
23 may not have resulted in a different outcome. Pub. Res. C. §21005(a). For example, the Court in  
24 Citizens to Preserve Ojai v. County of Ventura (1985) 176 Cal.App.3d 421, 428 held that the  
25 certification of an EIR that had not adequately discussed the environmental impacts of the project  
26 constituted a prejudicial abuse of discretion even if strict compliance with the mandates of CEQA  
27 would not have altered the outcome. The Court in Resource Defense Fund v. LAFCO (1987) 191  
28



1 Cal.App.3d 886, 897-8, went so far as to declare that failure to comply with CEQA procedural  
2 requirements was *per se* prejudicial. The court in Kings County Farm Bureau v. City of Hanford  
3 (1990) 221 Cal.App.3d 692 explained that an agency commits prejudicial error if “the failure to  
4 include relevant information precludes informed decision making and informed public participation,  
5 thereby thwarting the statutory goals of the EIR process.” Id., at 712.  
6

7 30. CEQA’s environmental review process is intended to provide the public with assurances  
8 that “the agency has, in fact, analyzed and considered the ecological implications of its actions.”  
9 Laurel Heights Improvement Ass. v. Regents of the University of California (1988) 47 Cal.3d 376,  
10 392. The function of the environmental review, then, is not merely to result in informed decision  
11 making on the part of the agencies, it is also to inform the public so they can respond to an action with  
12 which they disagree. Id.  
13

## 14 FIRST CAUSE OF ACTION

### 15 (Violations of CEQA)

16 31. Petitioner refers to and incorporates herein by this reference all preceding paragraphs of  
17 this Petition as though fully set forth herein.

18 32. The EIR violates CEQA because it fails to adequately describe the Project’s  
19 environmental baseline. The EIR claims it conservatively relied on a 2013 bovine head count, which  
20 according to the County, was the highest recent head count in the County. The evidence in the record,  
21 however, demonstrates that the EIR’s estimate of bovine head count is unreliable. The ACFP would  
22 replace the County’s existing method of determining heard size based on waste by-product control,  
23 which the EIR admits is inherently inaccurate. CEQA Findings at p. 565. Moreover, the EIR admits  
24 that the County is currently unaware of all existing operating or expanded dairies and feedlots, and  
25 hopes implementation of the ACFP would incentivize heretofore unlawful dairies to come forward  
26 and apply for a special use certificate. Thus, the County hopes to eventually come up with an accurate  
27  
28

1 tally, but fails to explain why instead of making feasible efforts to come up with accurate head counts,  
2 it chose to rely on data it knew to be unreliable. The EIR, moreover, fails to adequately explain how  
3 the 2013 head-count was calculated or provide adequate estimates for a complete and accurate bovine  
4 head count. This evidence shows that the County is aware that the EIR's analysis is based on  
5 inherently unreliable estimated head count.  
6

7 33. The County's proposed mitigation measures for addressing biological impacts, air  
8 quality, water quality, aesthetic impacts, and climate change are unlawful and inadequate. The County  
9 impermissibly defers the formulation of mitigation measures without adopting any meaningful  
10 thresholds of significance to address the Project's expected impacts on water quality, biological  
11 resources, aesthetics, air quality and climate change.  
12

13 34. Likewise, the County's approach to mitigation of impacts, which gives the County and  
14 the applicants under the plans virtually unfettered discretion to reject certain (Category A) mitigation  
15 measures as infeasible without public participation or oversight also violates CEQA. The County and  
16 the EIR fail to explain who will decide whether certain category A measures are infeasible, or how (by  
17 what standard) this decision would be made.  
18

19 35. The County, moreover, violated CEQA by improperly deferring the formulation of  
20 GHG reduction mitigation measures without adopting a meaningful threshold of significance or  
21 performance standard or a commitment to ensuring GHG emissions would be adequately mitigated.  
22 As the Final EIR explains, "a proposed expansion must incorporate, to the extent possible, the  
23 Category A emissions reduction strategies, listed in Table 5 on pages 34- 35, that are applicable based  
24 on the scope of the proposed expansion. To the extent that any of such Category A strategies would be  
25 infeasible or impracticable based on the specifics of the expansion, a Category B strategy, listed in  
26 Table 6 on pages 35-36, must be substituted for each such strategy." FEIR at p. 2-18. Thus, although  
27 the ACFP includes a set of preferred mitigation measures (Category A), it is impossible to project  
28

1 whether and to what extent future new and expanded projects under the ACFP would be approved  
2 with all or mostly Category B mitigation measures. Accordingly, there are no enforceable mitigation  
3 measures and no thresholds of significance to guide the future formulation of project-specific  
4 mitigation measures.

5  
6 36. The County's so-called streamlined approach to future project approvals under the  
7 ACFP and CEQA compliance is inadequate and unlawful. Pursuant to this approach, projects that  
8 nominally meet certain criteria can evade environmental review by tiering on the ACFP Final EIR.  
9 Thus, the County's process would exempt an unknown number of projects from environmental review  
10 without setting up adequate guidelines or procedures to ensure these project's environmental impacts  
11 are adequately analyzed and mitigated. According to ACFP § 2.6.2 **Environmental Review**,  
12 applicants for new bovine facilities and bovine facility expansions special use permits may be  
13 "required to provide such technical reports, as applicable, which the Resource Management Agency  
14 deems pertinent with respect to site-specific environmental and bovine facility siting issues." Thus,  
15 without any adequate guidelines or standards, the ACFP leaves it up to the sole discretion of the  
16 Resource Management Agency staff the decision what studies would be required to any given facility.  
17 This approach improperly defers the analysis of potentially significant impacts and mitigation  
18 measures to the discretionary determination by staff at a later date without adequate future CEQA  
19 review. The CEQA Initial Study Checklist, in contrast, requires the lead agency to consider all  
20 potentially significant impacts after adequate considerations and further requires notice and disclosure  
21 of those significant impacts to the public.

22  
23  
24 37. The ACFP and the EIR also permit streamline review even for a dairy expansion that  
25 does not conform with the separation and setback requirements of the ACFP, as long as the expanded  
26 operation would "not encroach any closer than existing facilities." Bovine Facility Checklist, item  
27 2(b). Thus, an expansion application under the ACFP would evade environmental review regardless  
28

1 of the size of the existing facility, the proposed expansion or the type of environmental impacts that  
2 could result (such as water quality or biological impacts). Contrary to Policy 2.5-3, the County could  
3 not lawfully approve a non-conforming dairy expansion without site-specific environmental review  
4 because the County could not make the findings required by CEQA Guideline §15168(c)(2) (“If the  
5 agency finds that pursuant to Section 15162, no new effects could occur or no new mitigation  
6 measures would be required, the agency can approve the activity as being within the scope of the  
7 project covered by the program EIR, and no new environmental document would be required.”)

9 38. According to the FEIR, “to qualify for a streamlined analysis (ACFP §2.5-3), a  
10 proposed expansion must incorporate, to the extent possible, the Category A emission reduction  
11 strategies listed in Table 5, on page 34-35, ....” FEIR at 2-18. Thus, under the ACFP, a proposed  
12 expansion that does not incorporate all applicable Category A emission reduction strategies may still  
13 be approved without CEQA review pursuant to the streamlined permitting process. The FEIR claims  
14 that “the scope and number of emissions reduction strategies needed to meet the requirements for the  
15 streamlined process under ACFP §2.5-4”, however §2.5-4 **does not contain any such guidelines.**  
16 Accordingly, because it is entirely at the discretion of the County to decide, on an ad hoc basis,  
17 whether any given expansion application qualifies for the streamlined process, the FEIR and ACFP  
18 cannot lawfully exempt expansion projects from individualized CEQA review. In other words, the  
19 County could not make the findings required by CEQA Guideline §15168(c)(2).  
20  
21

22 39. The County’s mitigation scheme violates CEQA because it amounts to unlawful  
23 deferral of mitigation measures. The County has essentially pre-approved an undeterminable number  
24 of expansion projects without setting a minimum performance standard, in violation of CEQA.

25 40. The FEIR violates CEQA also because through its streamlined CEQA checklist  
26 approach, it exempts from any CEQA review new expansion projects that generate less than 25,000  
27 metric tons of GHG emissions and meet certain siting requirements. These projects, however, may  
28

1 still be capable of causing significant environmental impacts on, for example, biological resources, air  
2 and water quality, aesthetic resources, etc. In other words, because the Final EIR never considered  
3 site-specific impacts, it could not be relied on by the County to exempt any new or expanded projects  
4 from site-specific review. Moreover, there is no substantial evidence to show project's with less than  
5 25,000 metric tons of GHG emissions would not cause a cumulatively significant impact on climate  
6 change.  
7

8 41. The County's failure to identify an appropriate environmental baseline undermines the  
9 EIR's analysis of the Project's direct and cumulative environmental impacts, particularly impacts  
10 related to climate change. Owing to the uncertainty surrounding the extent to which new and  
11 expanding dairy projects under the plans would be required to mitigate potentially significant impacts,  
12 and the County's failure to adopt thresholds of significance, the EIR's analysis of the ACFP's  
13 environmental impacts is unreliable and not supported by substantial evidence.  
14

15 42. The EIR violates CEQA because the County's proposed check-list approach is intended  
16 and would exempt future new and expanded dairies from CEQA review even where the evidence  
17 shows the site-specific project approved under the plan is capable of causing significant impacts. For  
18 example, where category A mitigation measures are deemed infeasible, a new project could be  
19 approved subject to a streamlined approach by arbitrarily implementing a Category B mitigation, even  
20 where the evidence shows the project would cause significant impacts.  
21

22 43. The EIR is inadequate as an informational document because it fails to discuss the  
23 extent to which compliance with the Air Pollution District and the Regional Water Quality Control  
24 District permitting requirements would reduce impacts from new and expanding projects under the  
25 plan to a less than significant level. As the lead agency, the County was required to require additional  
26 mitigation measures to address impacts on air quality and water quality if the evidence shows the  
27 regulatory permitting process does not adequately address dairy and feedlot impacts on these  
28

1 resources.

2 44. The EIR fails to adequately consider potentially feasible mitigation measures to reduce  
3 GHG emissions or demonstrates that mitigation measures suggested by the public infeasible.

4 Appendix B, Table 3 shows the three largest sources of GHG emissions are manure decomposition,  
5 enteric digestion, and emissions from farm agricultural soils. The proposed GHG reduction strategies  
6 considered in Table 4 demonstrates that the EIR only considered feed additives and Total Mixed  
7 Ration (TMR) feeding strategies along with the use of digesters as viable GHG reduction strategies.  
8 None of the measures, however, resulted in any substantial reductions of the projected increases in  
9 projected GHG emissions.  
10

11 45. The County's analysis and selection of alternatives to the Project violates CEQA. The  
12 County considered it legally infeasible to eliminate unlawful animal confinement facilities that  
13 continue to operate without valid permits and authorization from the County, the Air Pollution Control  
14 District or the Regional Water Quality Control Board. The County's contention that enforcing its own  
15 permitting authority by eliminating unpermitted dairies and feedlots would amount to a "regulatory  
16 taking" is clearly without basis and not supported by the applicable laws.  
17

18 46. The County's approach of rewarding unlawful and unpermitted dairies and feedlots by  
19 offering the same streamlined approach for expansion as available to lawfully operated operations is  
20 bad public policy and manifestly unfair to those bovine operations who have consistently operated  
21 within a legal framework. Existing unpermitted dairies, moreover, are exempted from implementing  
22 the mitigation measures that would ostensibly be required of all future new and expanded dairies.  
23

24 This approach again perversely rewards unlawful and unpermitted operators by exempting them from  
25 the mitigation requirement applicable to new operations. There is no evidence in the record or  
26 persuasive argument supporting the County's conclusion that requiring grandfathered dairies to  
27 implement the same mitigation as new dairies would be infeasible or contrary to sound public policy.  
28

1           47.     The County’s rejection of a “1% growth” alternative is not adequately explained and is  
2 not supported by substantial evidence. The County claims this environmentally superior alternative is  
3 infeasible because it fails to fully promote the County’s objectives of promoting economic  
4 development and continued productivity of economic resources. There is no evidence or argument to  
5 support the County’s arbitrary conclusion that 1.5% growth would fully support the County’s  
6 undefined and amorphous economic objectives, but 1 % heard growth would not.  
7

8           48.     The EIR’s analysis of growth rate is internally inconsistent and incoherent. In response  
9 to Sierra Club’s comment, the County claimed “the 1.5% annual growth rate was a reasonable  
10 assumption used for the EIR’s impact analysis, ....” Response to FEIR comments, at page 2. The  
11 County CEQA Findings’ discussion of alternatives, however, demonstrates that the EIR considered  
12 the 1.5% growth rate to be a growth cap by explaining that “the Thirty-three percent reduced Herd  
13 Size Alternative would reduce adverse impacts ....” Findings at p. 574. If the 1.5% growth rate is  
14 merely a reasonable growth rate and not a cap, how could the EIR reasonably consider a 1% growth  
15 rate as a reasonable alternative to 1.5% growth rate?  
16

17           49.     The EIR’s discussion of potentially feasible mitigation measures is inadequate.  
18 WHEREFORE, PETITIONERS pray for judgment against the City, as set forth herein below.  
19

20           1.     For a temporary stay, temporary restraining order, and preliminary and permanent  
21 injunctions restraining Respondents and their agents, servants, and employees, and all others acting in  
22 concert with them or on their behalf, from taking any action to implement or fund any portion or  
23 aspect of the Project, pending full compliance with the requirements of CEQA, and the CEQA  
24 Guidelines;

25           2.     For alternative and peremptory writs of mandate directing Respondents to vacate and  
26 set aside certification of the EIR and all approval documents for the Project;  
27  
28

1           3.       For alternative and peremptory writs of mandate directing Respondents to comply with  
2 CEQA, and the CEQA Guidelines, and take any other action as required by Public Resources Code  
3 section 21168.9;

4           4.       For a declaration that Respondents' actions in certifying the EIR and approving the  
5 Project violated CEQA, and the CEQA Guidelines, and that the certification and all project approvals  
6 are invalid and of no force or effect;

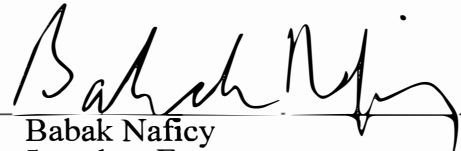
7           5.       For cost of the suit;

8           6.       For reasonable attorney's fees as authorized by Code of Civil Procedure section 1021.5  
9 and other provisions of law; and,

10          7.       For such other and further relief as the Court deems just and proper.

11  
12 Dated: January 11, 2018

LAW OFFICES OF BABAK NAFICY

13  
14 By:   
15 Babak Naficy  
16 Jonathan Evans  
17 Counsel for Petitioners SIERRA  
18 CLUB, CENTER FOR BIOLOGICAL  
19 DIVERSITY, and ASSOCIATION OF  
20 IRRITATED RESIDENTS  
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**VERIFICATION**

I, Babak Naficy, am counsel to the Sierra Club in this matter. I have personal knowledge of the following facts. The offices and governing boards of Petitioner/Plaintiff, Sierra Club, are located outside San Luis Obispo County, the county in which I maintain my office. I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief. The facts alleged in the above petition are true to the best of my knowledge and belief, and, on that ground, petitioners/plaintiffs allege that the matters stated herein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification was executed in San Luis Obispo, CA on January 11, 2018

  
Babak Naficy

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1 **VERIFICATION**

2 I, Babak Naficy, am counsel to the Center For Biological Diversity in this matter. I have personal  
3 knowledge of the following facts. The offices and governing boards of Petitioner/Plaintiff, Center  
4 for Biological Diverstiy, are located outside San Luis Obispo County, the county in which I  
5 maintain my office. I have read the foregoing Petition for Writ of Mandate and Complaint for  
6 Declaratory and Injunctive Relief. The facts alleged in the above petition are true to the best of my  
7 knowledge and belief, and, on that ground, petitioners/plaintiffs allege that the matters stated herein  
8 are true.

9 I declare under penalty of perjury under the laws of the State of California that the foregoing is true  
10 and correct and that this Verification was executed in San Luis Obispo, CA on January 11, 2018

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12 Babak Naficy  
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**VERIFICATION**

I, Babak Naficy, am counsel to the Association of Irrigated Residents in this matter. I have personal knowledge of the following facts. The offices and governing boards of Petitioner/Plaintiff, Association of Irrigated Residents, are located outside San Luis Obispo County, the county in which I maintain my office. I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief. The facts alleged in the above petition are true to the best of my knowledge and belief, and, on that ground, petitioners/plaintiffs allege that the matters stated herein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification was executed in San Luis Obispo, CA on January 11, 2018

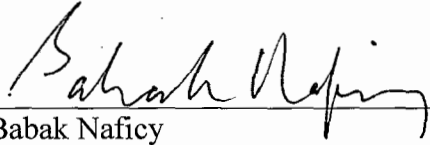
  
Babak Naficy

EXHIBIT "A"



January 11, 2018

**Sent via U.S. Mail and Fax**

County of Tulare  
Tulare County Board of Supervisors  
2800 West Burrel Ave  
Visalia, CA 93291  
Fax: (559) 733-6898

**RE: Notice of Intent to Commence Litigation Tulare County for violation of California Environmental Quality Act (Pub. Res. Code §21,000) in connection with the County's approval of an Animal Confinement Facilities Plan**

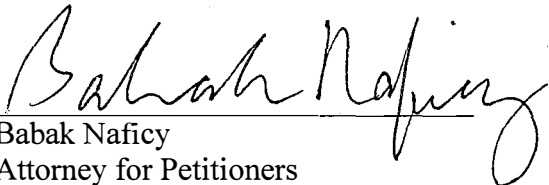
Honorable Supervisors

1540 Marsh Street  
Suite 110  
San Luis Obispo  
California 93401  
ph: 805-593-0926  
fax: 805-593-0946

Please take notice that the Sierra Club, Center for Biological Diversity, and Association of Irrigated Residents (collectively "Petitioners") intend to commence legal action against the County of Tulare and the Tulare County Board of Supervisors (collectively "County") in connection with the County's approval of an Animal Confinement Facilities Plan (ACFP), which also included certification of an Environmental Impact Report and approval of General Plan and zoning amendments.

[babaknaficy@sbcglobal.net](mailto:babaknaficy@sbcglobal.net)

Petitioners contend the County violated the California Environmental Quality Act ("CEQA"), Pub. Res. Code §21000 et seq., by preparing and certifying a Final Environmental Impact Report (FEIR), which among other things, fails to adequately describe the Project's environmental baseline or to analyze the project's potential environmental impacts. Petitioners further contend the County's approval of the Project violated CEQA because the County improperly defers the formulation of mitigation measures and authorizes future expansion of dairies and feedlots without adequate environmental review or mitigation. Petitioners intend to seek a judicial declaration that the County's approval of the Project was an abuse of discretion as it violated CEQA, its findings in support of the Project were not supported by substantial evidence and it failed to proceed in the manner required by law. Petitioner will seek an order setting aside the County's EIR and its unlawful approval of the Project.

  
Babak Naficy  
Attorney for Petitioners

TRANSMISSION VERIFICATION REPORT

TIME : 01/11/2018 11:27AM  
NAME :  
FAX :  
TEL :  
SER. # : U64203M6N350889

DATE, TIME	01/11 11:27AM
FAX NO. /NAME	15597336898
DURATION	00:00:38
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

Law Offices of **Babak Naficy**

FACSIMILE TRANSMISSION COVER SHEET

DATE: 1/11/2018	NUMBER OF PAGES INCLUDING COVER: 2
FROM: Law Office of Babak Naficy	
TO: County of Tulare Tulare County Board of Supervisors	FAX NUMBER: 559 733 6898
RE: Notice of Intent to Commence Litigation	

MESSAGE:  
Please see Notice of Intent to Commence Litigation attached hereto.



1540 Marsh Street  
Suite 110  
San Luis Obispo  
California 93401  
ph: 805-593-0926  
fax: 805-593-0946