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COUNTY OF KERN (including its Planning
11 Commission and Planning and Community
Development Department) and
12 KERN COUNTY BOARD OF SUPERVISORS

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF KERN**

15 VAQUERO ENERGY INC., a California
corporation; and HUNTER EDISON OIL
16 DEVELOPMENT LIMITED PARTNERSHIP,
a California limited partnership,

17 Petitioners and Plaintiffs,

18 v.

19 COUNTY OF KERN; KERN COUNTY
BOARD OF SUPERVISORS; and DOES 1
20 TO 10,

21 Respondents.

22 CALIFORNIA INDEPENDENT PETROLEUM
ASSOCIATION, a California non-profit
23 mutual benefit corporation; INDEPENDENT
OIL PRODUCERS' AGENCY, a California
24 corporation; WESTERN STATES
PETROLEUM ASSOCIATION, a California
25 non-profit mutual benefit corporation; and
DOES 11-20,

26 Real Parties in Interest.

**Case No. BCV-15-101645-EB
consolidated with
Case No. BCV-15-101666-EB and
Case No. BCV-15-101679-EB**

Action Filed: December 8, 2015

**RESPONSE AND ANSWER OF
COUNTY OF KERN AND KERN
COUNTY BOARD OF SUPERVISORS
TO VERIFIED PETITION FOR WRIT
OF MANDATE AND COMPLAINT OF
COMMITTEE FOR A BETTER ARVIN,
ET AL.**

*EXEMPT FROM FILING FEES –
GOV. CODE § 6103*

1 Respondents/defendants COUNTY OF KERN (including its Planning Commission
2 and Planning and Natural Resources Department) and KERN COUNTY BOARD OF
3 SUPERVISORS (collectively, "the County") respond to and answer the Verified Petition
4 for Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition") filed
5 by Petitioners and Plaintiffs COMMITTEE FOR A BETTER ARVIN, COMMITTEE FOR A
6 BETTER SHAFTER, GREENFIELD WALKING GROUP, NATURAL RESOURCES
7 DEFENSE COUNCIL, SIERRA CLUB, and CENTER FOR BIOLOGICAL DIVERSITY
8 (collectively, "Petitioners") as follows:

9 1. Answering paragraph 1, the County avers that the Petition speaks for itself;
10 avers that the actions taken by the County approving amendments to Chapter 19.98 and
11 other chapters of the Kern County Zoning Ordinance (the "Zoning Ordinance") and
12 certifying the Final Environmental Impact Report ("EIR") for the project are reflected in
13 resolutions approved by the County and other documents contained in the administrative
14 record which speak for themselves; admits that the Western States Petroleum
15 Association ("WSPA"), California Independent Petroleum Association ("CIPA"), and
16 Independent Oil Producers Agency ("IOPA") (collectively, "Industry Groups"), as project
17 applicants, reimbursed costs incurred by the County for environmental review as
18 required by the County; denies the allegations of the last sentence thereof; and, except
19 as admitted or averred, denies all remaining allegations of paragraph 1.

20 2. Answering paragraph 2, the County avers that the EIR, the Zoning
21 Ordinance, and related documents are contained in the administrative record and speak
22 for themselves; admits that the project area covers approximately 2.3 million acres and
23 the project includes oil and gas development as described in the Zoning Ordinance, EIR,
24 and related documents contained in the administrative record which speak for
25 themselves; and, except as averred, denies all allegations of paragraph 2.

1 3. Answering paragraph 3, the County avers that the California Environmental
2 Quality Act (“CEQA”) speaks for itself; and except as averred, denies all allegations of
3 paragraph 3.

4 4. Answering paragraph 4, the County avers that the EIR air quality analysis
5 and related documents are contained in the administrative record and speak for
6 themselves; avers that the allegations of paragraph 4 do not fully and accurately
7 characterize the EIR and mitigation measures with respect to air quality; and except as
8 admitted or averred, denies the allegations of paragraph 4.

9 5. Answering paragraph 5, the County avers that drought conditions and
10 water supply constraints exist in the state, including the project area, as described in the
11 EIR, CEQA findings, and related documents; avers that the Zoning Ordinance, the EIR
12 water supply and water quality analysis and other documents contained in the
13 administrative record speak for themselves; avers that the allegations of paragraph 5 do
14 not fully and accurately characterize the EIR and mitigation measures with respect to
15 water supply and water quality; and except as admitted or averred, denies all allegations
16 of paragraph 5.

17 6. Answering paragraph 6, the County avers that the EIR, the Zoning
18 Ordinance, CEQA findings, and related documents are contained in the administrative
19 record and speak for themselves; and except as averred, denies all allegations of
20 paragraph 6.

21 7. Answering paragraph 7, the County avers that the Kern County General
22 Plan and the Metropolitan Bakersfield General Plan speak for themselves; and except as
23 averred, denies all allegations of paragraph 7.

24 8. Answering paragraph 8, the County avers that the Zoning Ordinance, the
25 EIR, including written and oral public comments and County responses thereto, and
26 related documents are contained in the administrative record and speak for themselves;
27 avers that the County fully complied with CEQA’s public participation requirements and
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1 that the allegations of paragraph 8 do not fully and accurately characterize the
2 administrative record, which speaks for itself; and except as averred, denies all
3 allegations of paragraph 8.

4 9. Answering paragraph 9, the County avers that public notices, CEQA
5 documents, public comments and the County's responses on these subjects are
6 contained in the administrative record, which speaks for itself; and except as averred,
7 denies the allegations of paragraph 9.

8 10. The County denies the allegations of paragraph 10 of the Petition.

9 11. Answering paragraph 11, the County avers that environmental review and
10 mitigation for the project are sufficient and comply with CEQA; and as to the remaining
11 allegations states that it has no information or belief on the subjects thereof sufficient to
12 enable it to answer, and basing its denial on that ground, denies the allegations thereof.

13 12. Answering paragraph 12, the County states that it has no information or
14 belief on the subjects thereof sufficient to enable it to answer, and basing its denial on
15 that ground, denies the allegations thereof.

16 13. Answering paragraph 13, the County states that it has no information or
17 belief on the subjects thereof sufficient to enable it to answer, and basing its denial on
18 that ground, denies the allegations thereof.

19 14. Answering paragraph 14, the County admits that that oil and gas activities
20 could, without appropriate regulation and mitigation, pose potential threats to public
21 health and the environment but denies that parts of Kern County are threatened by the
22 oil and gas activities the Zoning Ordinance authorizes because of the extensive
23 regulation and mitigation to which such activities are subject; and except as denied,
24 states that it has no information or belief on the subjects thereof sufficient to enable it to
25 answer, and basing its denial on that ground, denies the allegations of paragraph 14.

26 15. Answering paragraph 15, the County denies that lack of oversight or
27 safeguards for oil and gas activities poses serious threats to public health and the

1 environment; and except as denied, states that the County has no information or belief
2 on the subjects thereof sufficient to enable it to answer, and basing its denial on that
3 ground, denies the allegations of paragraph 15.

4 16. Answering paragraph 16, the County denies that the Zoning Ordinance will
5 detrimentally impact species and habitats found in Kern County's oil and gas fields; and
6 except as denied, states that it has no information or belief on the subjects thereof
7 sufficient to enable it to answer, and basing its denial on that ground, denies the
8 allegations of paragraph 16.

9 17. Answering paragraph 17, the County denies that the EIR contains
10 deficiencies; admits that Petitioners submitted scoping comments and comments on the
11 Draft and Final EIR, and avers that said written and oral public comments are contained
12 in the administrative record and speak for themselves.

13 18. Answering paragraph 18, the County denies that this action is in the public
14 interest; and as to the remaining allegations states that it has no information or belief on
15 the subjects thereof sufficient to enable it to answer, and basing its denial on that
16 ground, denies the allegations of paragraph 18.

17 19. The County admits the allegations of paragraph 19 of the Petition.

18 20. The County admits the allegations of paragraph 20 of the Petition.

19 21. Answering paragraph 21, the County admits that staff members employed
20 in its Planning and Community Development Department ("Planning Department") (now
21 known as the Planning and Natural Resource Department) provide land use planning
22 and community development services for the County, including the drafting of
23 environmental documents under CEQA, and that they drafted the Project's EIR and
24 CEQA findings that ultimately were certified and adopted by the Kern County Board of
25 Supervisors; and, except as admitted, denies the allegations thereof.

26 22. Answering paragraph 22, the County avers that the administrative record
27 speaks for itself; and, except as averred, admits the allegations thereof.

1 23. Answering paragraph 23, the County avers that the Petition and the
2 definition of "County" used therein speak for themselves.

3 24. The County admits the allegations of paragraph 24 of the Petition.

4 25. Answering paragraph 25, the County admits that CIPA is a trade
5 association that represents companies involved in oil and gas exploration, production,
6 and/or related activities. The County lacks information or belief sufficient to answer the
7 remaining allegations of paragraph 25 of the Petition and, basing its denial on that
8 ground, denies all such allegations.

9 26. Answering paragraph 26, the County admits the allegations thereof.

10 27. Answering paragraph 27, the County avers that the Notice of
11 Determination is contained in the administrative record and speaks for itself. The County
12 admits that the November 10, 2015 Notice of Determination ("NOD") for the Project listed
13 the Planning Department, the Western States Petroleum Association ("WSPA"),
14 California Independent Petroleum Association ("CIPA"), Independent Oil Producers
15 Agency ("IOPA") as "Applicant, or Sponsoring Agency or Department" (indicating that the
16 Planning Department was the sponsoring agency, and that WSPA, CIPA and IOPA were
17 the applicants). Except as so averred and admitted, the County denies all other
18 allegations of paragraph 27.

19 28. Answering paragraph 28, the County states that it has no information or
20 belief on the subjects sufficient to enable it to answer, and basing its denial on that
21 ground, denies the allegations thereof.

22 29. Answering paragraph 29, the County admits that this Court has jurisdiction
23 over the matters alleged in the Petition; and avers that the remaining allegations of
24 paragraph 29 are legal contentions for which no response is required. To the extent any
25 response is required to the remaining allegations of paragraph 29, the County denies
26 such allegations.

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1 38. Answering paragraph 38, as to the first sentence thereof, the County
2 admits that, as described in the EIR based on Kern County census information, the
3 County has a total population of approximately 848,204; as to the remaining allegations
4 thereof, states it has no information or belief on the subjects sufficient to enable it to
5 answer, and basing its denial on that ground, denies the allegations thereof.

6 39. The County admits the allegations of paragraph 39 of the Petition.

7 40. Answering paragraph 40, the County admits the 3,700-square mile project
8 area is predominantly located in the western portion of the County in the San Joaquin
9 Valley, as described in the EIR which is contained in the administrative record and
10 speaks for itself; and admits the allegations of the second sentence thereof.

11 41. Answering paragraph 41, the County avers that the map in Figure 3-1 of
12 the Draft EIR is included in the administrative record and speaks for itself; and except as
13 averred, admits the allegations of paragraph 41.

14 42. Answering paragraph 42, on information and belief, the County admits the
15 allegations thereof.

16 43. Answering paragraph 43, the County admits that western Kern County
17 currently contains approximately 76 active oil and gas production fields; and admits the
18 remaining allegations of paragraph 43, as described in the EIR which is contained in the
19 administrative record and speaks for itself.

20 44. Answering paragraph 44, the County admits the San Joaquin Valley Air
21 Basin has been designated nonattainment/extreme for federal ozone and
22 nonattainment/severe for state ozone standards, and nonattainment for state particulate
23 matter and federal (fine) particulate matter; and except as admitted, avers that the
24 description of air quality conditions contained in the EIR speaks for itself.

25 45. Answering paragraph 45, the County avers that the EIR and other
26 documents contained in the administrative record speak for themselves; and except as
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1 averred, states it has no information or belief on the subjects sufficient to enable it to
2 answer, and basing its denial on that ground, denies the allegations of paragraph 45.

3 46. Answering paragraph 46, the County admits that the state and Kern
4 County are experiencing drought conditions; avers that the new state groundwater
5 planning law and related classifications speak for themselves; and as to remaining
6 allegations, avers that the water supply analysis for the project is contained in the EIR,
7 the CEQA findings and other documents contained in the administrative record which
8 speak for themselves.

9 47. Answering paragraph 47, the County denies the allegations thereof; and
10 avers that water supply and subsidence issues are analyzed in the EIR and related
11 documents contained in the administrative record, which speak for themselves.

12 48. Answering paragraph 48, the County admits that the southwestern willow
13 flycatcher, San Joaquin kit fox, blunt nosed leopard lizard and California condor inhabit
14 Kern County as described in the EIR that is contained in the administrative record and
15 speaks for itself; admits that the Bitter Creek National Wildlife Refuge is located in the
16 County; and avers that the first sentence of paragraph 48 mischaracterizes the special
17 status species occurring within the project area, as described in the EIR that is contained
18 in the administrative record and speaks for itself. The County denies any remaining
19 allegations of paragraph 48.

20 49. Answering paragraph 49, the County admits that, in response to a request
21 from Industry Groups, on January 22, 2013, the Board of Supervisors directed Planning
22 and Community Development Department staff to proceed with processing amendments
23 to the Zoning Ordinance to include additional provisions for local oil and gas permitting,
24 as described in the EIR, CEQA findings, application materials, and other documents
25 contained in the administrative record which speak for themselves; admits that Industry
26 Groups, as project applicants, reimbursed costs incurred by the County for

1 environmental review as required by the County; and, except as admitted, denies the
2 allegations of paragraph 49.

3 50. Answering paragraph 50, the County admits that its Planning and
4 Community Development Department staff developed provisions for local oil and gas
5 local permitting as described in the EIR, CEQA findings, application materials, and other
6 documents contained in the administrative record which speak for themselves; admits
7 that, in drafting these provisions, its Planning and Community Development Department
8 staff communicated with representatives of the Industry Groups, as well as other
9 interested persons; avers that the Zoning Ordinance and related documents are
10 contained in the administrative record and speak for themselves; and except as admitted
11 or averred, denies the allegations of paragraph 50. In particular, County denies
12 Petitioner's allegation that permits under the ordinance "will be granted as of
13 right." Before the Project was approved, oil and gas development activity was, in most
14 areas of the County, an as-of-right permitted use which required no land use permits
15 from the County. After adoption of the Project, these oil and gas development land uses
16 are no longer permitted as of right. Instead, these activities now require permits from the
17 County which require compliance with numerous conditions described in the Zoning
18 Ordinance, and numerous mitigation measures described in the EIR.

19 51. Answering paragraph 51, the County admits that amendments to the
20 Zoning Ordinance, together with the implementation of future oil and gas activities
21 expected to be undertaken pursuant to the amended Zoning Ordinance, is the "project"
22 considered in the EIR as described in the EIR and other documents contained in the
23 administrative record which speak for themselves; avers that the EIR, the Zoning
24 Ordinance, and other documents contained in the administrative record speak for
25 themselves; and except as admitted or averred, denies the allegations of paragraph 51.

26 52. Answering paragraph 52, the County admits that the Zoning Ordinance
27 authorizes oil and gas exploration and production activities as described therein; and

1 avers that the Zoning Ordinance and related documents are contained in the
2 administrative record and speak for themselves.

3 53. Answering paragraph 53, the County denies the allegations thereof.
4 County further avers that the EIR for the project analyzes environmental and health
5 risks, is contained in the administrative record and speaks for itself.

6 54. Answering paragraph 54, the County avers that the air quality analysis and
7 health risk assessments for the project and related documents are contained in the EIR
8 and administrative record and speak for themselves; and except as averred, denies the
9 allegations of paragraph 54.

10 55. Answering paragraph 55, the County avers that the Zoning Ordinance, the
11 EIR, and related documents are contained in the administrative record and speak for
12 themselves; and except as averred, denies the allegations of paragraph 55.

13 56. Answering paragraph 56, the County avers that the Zoning Ordinance, the
14 EIR, and related documents are contained in the administrative record and speak for
15 themselves; admits that, as described in the EIR, the California Department of
16 Conservation, Division of Oil, Gas and Geothermal Resources (“DOGGR”) ordered 23
17 injection wells to cease operations as of March 2015 and ordered closure of an
18 additional 33 injection wells in October 2015; and except as averred, denies all
19 allegations of paragraph 56.

20 57. Answering paragraph 57, the County avers that injection well and water
21 supply issues are analyzed in the EIR and related documents contained in the
22 administrative record, which speak for themselves; and except as averred, denies the
23 allegations thereof.

24 58. Answering paragraph 58, the County avers that injection well and
25 subsidence issues are analyzed in the EIR and related documents contained in the
26 administrative record, which speak for themselves; avers that, unrelated to the Zoning
27 Ordinance, DOGGR monitors subsidence in oil and gas fields and regulates withdrawal

1 and re-pressurizing in each field; and except as averred, denies the allegations of
2 paragraph 58.

3 59. Answering paragraph 59, the County avers that noise and light issues are
4 analyzed in the EIR and related documents contained in the administrative record, which
5 speak for themselves; and except as averred, denies the allegations of paragraph 59.

6 60. Answering paragraph 60, the County avers that that biological resource
7 issues are analyzed in the EIR and related documents contained in the administrative
8 record, which speak for themselves; and except as averred, denies the allegations of
9 paragraph 60.

10 61. Answering paragraph 61, the County avers that the EIR and related
11 documents and accompanying findings are contained in the administrative record and
12 speak for themselves; and except as averred, denies the allegations of paragraph 61.

13 62. Answering paragraph 62, the County avers that the EIR and related
14 documents and accompanying findings are contained in the administrative record and
15 speak for themselves; and except as averred, denies the allegations of paragraph 62.

16 63. Answering paragraph 63, the County admits the allegations thereof.

17 64. Answering paragraph 64, the County avers that public notices and the
18 Initial Study are contained in the administrative record, which speaks for itself; avers that
19 the County provided Spanish-language interpreters at all public hearings and workshops
20 on the Project and the EIR; and except as averred, admits the allegations of paragraph
21 64.

22 65. Answering paragraph 65, the County avers that public notices and the
23 Draft EIR are contained in the administrative record, which speaks for itself; avers that
24 the County extended the comment period to September 11, 2015, despite no legal
25 obligation to do so; avers that the County provided Spanish-language interpreters at all
26 public hearings and workshops on the Project and the EIR; and except as averred,
27 admits the allegations of paragraph 65.

1 66. Answering paragraph 66, the County avers that the referenced comment
2 letters are contained in the administrative record and speak for themselves; avers that
3 on July 29, 2015, the Planning and Community Development Department extended the
4 comment period from August 24, 2015 to September 11, 2015; and except as averred,
5 admits the allegations of paragraph 66.

6 67. Answering paragraph 67, the County admits the allegations thereof, except
7 that the comment period was 65 calendar days.

8 68. Answering paragraph 68, the County admits that Petitioners submitted
9 comments on the Draft EIR, and avers that said comments with attachments are
10 contained in the administrative record and speak for themselves; and except as averred,
11 denies the allegations of paragraph 68.

12 69. Answering paragraph 69, the County avers that Petitioners' comments and
13 the EIR are contained in the administrative record and speak for themselves; and except
14 as averred, denies the allegations of paragraph 69.

15 70. Answering paragraph 70, the County avers that Petitioners' comments are
16 contained in the administrative record and speak for themselves; and except as averred,
17 denies all allegations of paragraph 70.

18 71. Answering paragraph 71, the County avers that Petitioners' comments and
19 the Zoning Ordinance are contained in the administrative record and speak for
20 themselves; admits that the County disagrees with Petitioners; and except as averred or
21 admitted, denies all allegations of paragraph 71.

22 72. Answering paragraph 72, the County avers that Petitioners' comments and
23 the EIR are contained in the administrative record and speak for themselves; and except
24 as averred, denies all allegations of paragraph 72.

25 73. Answering paragraph 73, the County avers that Petitioners' comments and
26 the EIR are contained in the administrative record and speak for themselves; and except
27 as averred, denies all allegations of paragraph 73.

1 74. Answering paragraph 74, the County avers that comments by other
2 commenters and the EIR are contained in the administrative record and speak for
3 themselves; avers that California’s Planning and Zoning Law, the County’s General Plan,
4 and the Bakersfield Metropolitan Area General Plan speak for themselves; and except
5 as averred, denies all allegations of paragraph 74.

6 75. The County admits the allegations of paragraph 75 of the Petition.

7 76. Answering paragraph 76, the County avers that a transcript of the October
8 5, 2015 Planning Commission hearing is contained in the administrative record and
9 speaks for itself; and except as averred, admits the allegations of paragraph 76.

10 77. Answering paragraph 77, the County avers that Chapter 12 of the EIR
11 (“Chapter 12”) was posted on the County website on October 29, 2015; avers that
12 Chapter 12, related documents, and the EIR are contained in the administrative record
13 and speak for themselves; and except as averred, denies the allegations thereof.

14 78. Answering paragraph 78, the County avers that Chapter 12 of the EIR, with
15 appendices thereto, was posted on the County website on October 29, 2015; avers that
16 the EIR, including health risk assessments and related documents, are contained in the
17 administrative record and speak for themselves; and except as averred, denies all
18 allegations of paragraph 78.

19 79. Answering paragraph 79, the County admits that Chapter 12 of the EIR,
20 with appendices thereto, was posted on the County website on October 29, 2015; avers
21 that said documents are contained in the administrative record and speak for
22 themselves; and except as admitted or averred, denies all allegations of paragraph 79.

23 80. Answering paragraph 80, the County avers that Petitioners’ written
24 comments and attachments thereto, as well as the EIR and related documents, are
25 contained in the administrative record and speak for themselves; avers that a transcript
26 of the November 9, 2015 Board of Supervisors hearing is contained in the administrative
27 record and speaks for itself; avers further that the California Council on Science and

1 Technology scientific assessment speaks for itself; admits that the EIR requires new oil
2 and gas wells to be a minimum of 210 feet from the closest sensitive receptor, as
3 described in the EIR, which speaks for itself; and except as admitted or averred, denies
4 all allegations of paragraph 80.

5 81. Answering paragraph 81, the County avers that Petitioners' comments and
6 the EIR and the Zoning Ordinance are contained in the administrative record and speak
7 for themselves; and except as averred, denies all allegations of paragraph 81.

8 82. Answering paragraph 82, the County avers that a transcript of the
9 November 9, 2015 Board of Supervisors hearing and minutes thereof are contained in
10 the administrative record and speak for themselves; avers that its Board of Supervisors
11 considered and discussed comments made by the public at the hearing; avers that at
12 said hearing, and in response to such public comments, the Board made certain
13 amendments to the draft ordinance, enacted Ordinance G-8605 amending portions of
14 the Zoning Ordinance, adopted Resolution 2015-298 which certified the EIR, and
15 adopted the findings of fact, statement of overriding considerations, and mitigation,
16 monitoring, and reporting program, and, and except as averred, admits the allegations of
17 paragraph 82.

18 83. Answering paragraph 83, the County avers that the Zoning Ordinance and
19 the EIR are contained in the administrative record and speak for themselves; and except
20 as averred, admits the allegations thereof.

21 84. Answering paragraph 84, the County avers that the EIR and administrative
22 record speak for themselves; and except as averred, denies the allegations of paragraph
23 84.

24 85. Answering paragraph 85, the County avers that the EIR, the air quality
25 analysis therein, and related documents are contained in the administrative record and
26 speak for themselves; and except as averred, denies the allegations of paragraph 85.

1 and that the provisions of CEQA speaks for themselves; and except as averred, denies
2 all allegations of paragraph 92.

3 93. Answering paragraph 93, the County avers that Petitioners' contentions
4 and allegations in the Petition speak for themselves; avers that the Zoning Ordinance is
5 contained in the administrative record and speaks for itself; and except as averred,
6 denies the allegations of paragraph 93.

7 94. Answering paragraph 94, the County incorporates by reference and re-
8 allege their responses to paragraphs 1 through 93, inclusive, as though fully set forth
9 herein.

10 95. Answering paragraph 95, the County avers that the provisions of
11 California's Planning and Zoning Law speak for themselves.

12 96. Answering paragraph 96, the County avers that the allegations thereof are
13 legal contentions and conclusions for which no response is required; avers that the
14 Zoning Ordinance is contained in the administrative record and speaks for itself; and that
15 the Kern County General Plan and the Metropolitan Bakersfield General Plan speak for
16 themselves; and except as averred, denies the allegations of paragraph 96.

17 97. Answering paragraph 97, the County avers that Petitioners' contentions
18 and allegations in the Petition speak for themselves; avers that the Zoning Ordinance is
19 contained in the administrative record and speaks for itself; and except as averred,
20 denies the allegations of paragraph 97.

21 98. The County denies each and every allegation of the Petition not addressed
22 above.

23 **RELIEF REQUESTED**

24 Answering Petitioners' Prayer for Relief, the County denies that Petitioners are
25 entitled to the relief sought or to any relief whatsoever.

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DEFENSES

As separate and distinct defenses to the Petition as a whole, and to each cause of action set forth therein, the County alleges as follows:

FIRST DEFENSE

(Failure to State a Cause of Action)

The Petition fails to allege facts sufficient to state a cause of action upon which relief may be granted.

SECOND DEFENSE

(Failure to Exhaust Administrative Remedies)

To the extent Petitioners seek to raise issues in this action that were not presented to Respondents prior to Respondents' approval of the project, Petitioners failed to exhaust available administrative remedies that are a prerequisite to the filing and prosecution of this action.

THIRD DEFENSE

(Statutory Bar)

The Petition, and each and every purported cause of action alleged therein, is barred, in whole or in part, by Code of Civil Procedure section 526, subdivision (b)(4) and Civil Code section 3423, subdivision (d).

FOURTH DEFENSE

(Undiscovered Affirmative Defenses Reserved)

The allegations of the Petition and each cause of action are set forth in conclusory or uncertain terms, thereby precluding the County from fully anticipating all affirmative defenses that may be applicable; accordingly, the right to add additional defenses is hereby reserved.

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PRAYER FOR RELIEF

WHEREFORE, the County pray that judgment be entered as follows:

1. That the Petition, and all relief requested therein, be denied and dismissed with prejudice in its entirety;
2. That Petitioners take nothing by their Petition, and that judgment be entered in favor of the County, and against Petitioners;
3. That the County be awarded its costs of suit; and
4. For such further relief as may be just and proper.

Dated: October 17, 2016

THERESA A. GOLDNER, COUNTY COUNSEL

By: 
Charles F. Collins, Chief Deputy

HOLLAND & KNIGHT LLP

By: 
Jennifer L. Hernandez
Charles L. Coleman III

Counsel for Respondents/Defendants
COUNTY OF KERN (including its Planning
Commission and Planning and Community
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PROOF OF SERVICE

I, the undersigned, hereby declare that I am over the age of 18 years and not a party to the above-captioned action. My business address at Holland & Knight is 50 California Street, 28th Floor, San Francisco, California 94111-4624. On October 17, 2016, the following document was served:

- **RESPONSE AND ANSWER OF COUNTY OF KERN AND KERN COUNTY BOARD OF SUPERVISORS TO VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT OF COMMITTEE FOR A BETTER ARVIN, ET AL.**

on all parties to this action at the following addresses in the following manner:

(BY ELECTRONIC SERVICE) Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the document to be sent to the persons at the electronic notification addresses listed below, in accordance with Code Civ. Proc. 1010.6.

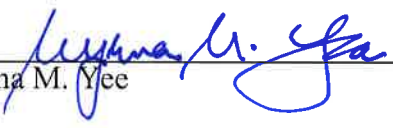
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own personal knowledge, and that I executed this document on October 17, 2016, at San Francisco, California.



Myrna M. Yee