

ENDORSED
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA

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16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 IN AND FOR THE COUNTY OF SONOMA

18 SIERRA CLUB, FRIENDS OF THE
19 GUALALA RIVER, CENTER FOR
20 BIOLOGICAL DIVERSITY,

21 Petitioners,
22 v.

23 CALIFORNIA DEPARTMENT OF
24 FORESTRY AND FIRE
25 PROTECTION, and Does I through X
26 inclusive;

27 Respondents.
28 _____ /

29 CODORNIU NAPA, INC. and DOES XI
30 through XX, inclusive,

31 Real Parties in Interest.
32 _____ /

No.: SW- 251807

UNLIMITED CIVIL CASE

PETITION FOR WRIT OF
ADMINISTRATIVE MANDATE,
CEQA (CCP § 1094.5)

BY FAX

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INTRODUCTION

1. On May 8, 2012, the California Department of Forestry and Fire Protection (Cal-Fire) approved the Fairfax Conversion Project (Project) and certified its environmental impact report (EIR) under the California Environmental Quality Act (CEQA). The applicant, Codorniu Napa, Inc., the American subsidiary of Codorniu of Spain, proposes to permanently replace a 154-acre redwood forest with a vineyard near the town of Annapolis in Sonoma County.

2. From its inception, the Project and its EIR generated opposition from the public and experts as well as a number of agencies, including Sonoma County. These parties found legal fault with the EIR on numerous grounds, including but not limited to its analysis of alternatives, water quality impacts, cultural resources, environmental setting, noise, greenhouse gases, and more. Despite these errors, on May 8, 2012, Cal-Fire approved the Project, issued the needed timberland conversion permit, and certified the final EIR.

3. In light of these and other violations of CEQA, the Sierra Club, Friends of the Gualala River (FoGR) and the Center for Biological Diversity (CBD) request the Court to set aside Cal-Fire's approval of the Project and its timberland conversion permit, as well as certification of its EIR.

GENERAL ALLEGATIONS

4. Petitioner SIERRA CLUB is a non-profit corporation, organized under the laws of the State of California, with its headquarters in San Francisco, California. The Club is a national conservation organization with 1.3 million members. The general mission of the Club includes the enjoyment, enhancement, protection, and preservation by all lawful means of the forests, waters, wildlife, wilderness, and other natural and scenic resources of the United States and the Earth in general. The Club and its members believe that habitat alteration and elimination pose the greatest threats to the continued well-being of healthy

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1 fish and wildlife populations. The Redwood Chapter of the Sierra Club has approximately
2 9,000 members who reside in the north coast region of California, including Sonoma
3 County.

4
5 5. Petitioner FRIENDS OF THE GUALALA RIVER (FoGR) is a non-profit,
6 grassroots watershed protection association formed to share common concerns and
7 research regarding the welfare of the Gualala River, its estuary and habitat. FoGR's goal is
8 to protect the Gualala River watershed and the species that rely on it.

9
10 6. Petitioner CENTER FOR BIOLOGICAL DIVERSITY ("CBD") is a non-profit,
11 public interest corporation with over 40,000 members and offices in San Francisco,
12 California and elsewhere in the United States. CBD and its members are dedicated to
13 protecting diverse native species and habitats through science, policy, education, and
14 environmental law. Recognizing that global warming from society's emission of
15 greenhouse gases is one of the foremost threats to CBD's members and their recreational,
16 spiritual, vocational, educational, aesthetic and other interests in the earth's environment,
17 biodiversity, and public health, CBD's Climate Program works to reduce United States
18 greenhouse gas emissions and promote sound conservation strategies in order to protect
19 these interests.

20
21 7. The personal and aesthetic interests of Petitioners and the persons associated with
22 them will be severely injured if the Project as approved by Cal-Fire is allowed to proceed
23 as planned. Petitioners are within the class of persons beneficially interested in and
24 aggrieved by Cal-Fire's approval as alleged below. Petitioners include individuals who
25 expressed their concerns and objections to the approval of the EIR at a public hearing and
26 in correspondence to Cal-Fire.

27 8. Respondent Cal-Fire is an agency of the State of California.

28 9. The true names and capacities, whether individual, corporate, or otherwise, of DOES
I through X are unknown to Petitioners, who therefore sue said Respondents by such

1 fictitious names. Petitioners will seek leave to amend this petition when they have been
2 ascertained.

3
4 10. Real party in interest Codorniu Napa, Inc. is a for profit corporation doing business
5 in California. It is a subsidiary of the Spanish company Codorniu of Spain. It owns the
6 Project site. It owns the Artesa Winery and Vineyards in Napa County.

7
8 11. The true names and capacities, whether individual, corporate, or otherwise, of
9 DOES XI through XX, are unknown to Petitioners who therefore sue said Real Parties in
10 Interest by such fictitious names. Petitioners will seek leave to amend this petition when
11 they have been ascertained.

12
13 12. The proposed Project is located near the town of Annapolis in Sonoma County atop
14 the Beatty Ridge between Grasshopper Creek and the Wheatfield Fork of the Gualala
15 River. The Project would develop a vineyard on a site located in the County of Sonoma,
16 about 0.5 to 0.75 miles southeast of the town of Annapolis and five miles east of the Pacific
17 Ocean.

18
19 13. The site comprises 324 acres. The Project would develop 173 acres, comprising a
20 116-acre vineyard, a reservoir, roads, perimeter avenues, a corporation yard and non-
21 vineyard uses. Approximately 151 acres would remain undeveloped and preserved.

22
23 14. The draft EIR was circulated to the public for a 60-day public review period from
24 May 29, 2009 to July 28, 2009.

25
26 15. In March 2011, Cal-Fire circulated a "Partially Recirculated Draft Environmental
27 Impact Report" to update two draft EIR sections regarding cultural resources and climate
28 change.

16. On February 8, 2012, Cal-Fire published the final EIR.

17. On May 8, 2012, Cal-Fire approved the Project, issued Timberland Conversion
Permit 530, issued its findings, and certified the final EIR.

1 18. On May 11, 2012, Cal-Fire posted a Notice of Determination with the Office of
2 Planning and Research.

3 20. Jurisdiction of this Court is invoked pursuant to California Code of Civil Procedure
4 1094.5; Public Resources Code sections 21168 and 21168.5.

5 21. Petitioners have performed all conditions precedent to the filing of this Petition by
6 raising issues known to them before Cal-Fire during the review process of the EIR.
7 Petitioners requested that Cal-Fire not approve the EIR, and have performed all conditions
8 precedent to the other causes of action.
9

10 22. At all times mentioned herein, Cal-Fire has been able to deny the approval and
11 operation of the EIR at issue. Despite such ability, and despite Petitioners' demand for
12 denial, Cal-Fire has failed and continues to fail to perform its duty to deny the approval and
13 operation of the plan.

14 23. If Cal-Fire is not ordered to withdraw its approval of the Project and certification of
15 its EIR, and real party is not enjoined from proceeding with the Project, the land, wildlife
16 habitat, and environmental values subject to and affected by the EIR will suffer irreparable,
17 and permanent damage.

18 24. If Cal-Fire is not ordered to withdraw its approval of the Project and certification of
19 the EIR, or if its decision is not stayed pursuant to CCP section 1094.5, subdivision (g), the
20 land, wildlife habitat, and environmental values subject to and affected by the EIR will
21 suffer irreparable, and permanent damage.
22

23 **FIRST CAUSE OF ACTION (CEQA)**

24 **First Claim for Relief**

25 25. Under CEQA, Cal-Fire is required to consider a range of reasonable alternatives to
26 the proposed project. (Pub. Res. Code, §§ 21001, subd. (g); CEQA Guidelines, § 15126.6,
27 subd. (a).)
28

1 26. A reasonable alternative is one that is feasible, less damaging, and meets the basic
2 objectives of the landowner. (CEQA Guidelines, § 15126.6, subs. (a)-(c), (f).) An
3 alternative is feasible even if it would impede to some degree the attainment of the project
4 objectives, or would be more costly. (CEQA Guidelines, § 15126.6, subd (b).) The
5 consideration of alternatives must be sufficiently detailed to provide decisionmakers and
6 the public with information to allow them to intelligently take account of environmental
7 consequences. (CEQA Guidelines, § 15126.6, subd (f).)

8
9 27. Cal-Fire violated CEQA in approving the EIR. Besides the no project alternative,
10 which is required in every case, the EIR considered three others, the off-site alternative,
11 reduced size alternative, and logging only alternative.

12 28. Of these three, the off-site alternative is not reasonable for several reasons. First, it
13 is not less damaging than the Project itself. (CEQA Guidelines, § 15126.6, subs. (a)-(c),
14 (f).) Oddly, the EIR insisted on considering only off-site alternatives that involved forest
15 removal, as if such destruction were a project objective.

16 29. Second, the EIR lacks substantial evidence that the off-site alternatives it
17 considered were feasible, that is, that there was a willing seller and, assuming there was,
18 that Codorniu Napa, Inc. was in a position to purchase an alternative site. (CEQA
19 Guidelines, § 15126.6, subd. (a) [must be capable of feasibly attaining most of project's
20 basic objectives].)

21
22 30. Third, the off-site alternative was based on overly narrow objectives that ensured
23 its rejection. (*City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1455
24 [project's objectives may not be too narrowly drawn, resulting in unacceptably narrow
25 alternatives].)

26 31. The off-site alternative, as discussed in the EIR, is neither feasible nor less
27 damaging, and therefore did not warrant consideration in the EIR. (CEQA Guidelines, §
28 15126.6, subs. (a)-(c), (f).) Once it is eliminated, the no project alternatives and two

1 others do not constitute a *range* of reasonable alternatives as CEQA requires. (CEQA
2 Guidelines, § 15126.6, subds. (a).)

3
4 32. In addition, the EIR concedes that the logging only alternative does not meet
5 project objectives. An alternative that does not meet most project objectives is not
6 considered feasible or reasonable under CEQA and need not be considered. (CEQA
7 Guidelines, § 15126.6, subds. (a)-(c), (f).) The no project alternatives and one other
8 alternative do not constitute a *range* of reasonable alternatives as CEQA requires. (CEQA
9 Guidelines, § 15126.6, subds. (a).)

10 33. The final EIR reasons that it was entitled to consider a lesser range of alternatives
11 because the EIR was mitigated to avoid significant effects. This reasoning is wrong as a
12 matter of law and was expressly rejected in *Laurel Heights Improvement Assn. v. Regents*
13 *of University of California* (1988) 47 Cal.3d 376, 401-402, and *Friends of the Old Trees v.*
14 *Department of Forestry & Fire Protection* (1997) 52 Cal.App.4th 1383, 1403. (See also
15 Pub. Res. Code, §§ 21002, 21002.1.)

16 34. In light of the foregoing violations of CEQA, Cal-Fire prejudicially abused its
17 discretion in approving the EIR. (Pub. Res. Code, §§ 21168, 21168.5.) The EIR does not
18 include an adequate description, discussion, and analysis of alternatives to the Project.
19 These errors prevent meaningful public participation and informed decision making and
20 constitute a prejudicial abuse of discretion. (*Laurel Heights, supra*, 47 Cal.3d 376, 401-
21 402; CEQA Guidelines, § 15126.6, subd (f).)

22 23 **Second Claim for Relief**

24 35. A draft EIR (DEIR) must include a description of the environmental setting. The
25 environmental setting should include among other things a discussion of “any
26 inconsistencies between the proposed project and applicable general plans....” (CEQA
27 Guidelines, § 15125, subd. (d).)

1 36. The DEIR purported to discuss the Project’s conformity with various land use
2 plans, policies, statutes and regulations, including the Sonoma County General plan and the
3 Policies of the Board of Forestry. The DEIR’s discussion was inadequate under CEQA.

4 37. The DEIR concluded that the Project was compatible with Sonoma County’s
5 General Plan, on the ground that vineyard development was consistent with the Project’s
6 zoning. Sonoma County wrote Cal-Fire to inform it that the Project was *not* compatible
7 with the General Plan. Cal-Fire continued to maintain that it was.

8 38. The EIR’s erroneous interpretation of the Sonoma County General Plan violated
9 CEQA and Guidelines, § 15125, subd. (d), and constituted a prejudicial abuse of discretion.
10 (Pub. Res. Code, §§ 21168, 21168.5; *Vineyard Area Citizens for Responsible Growth, Inc.*
11 *v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 426-427, 435.)

12 39. The DEIR also concluded that the Project was consistent with Board of Forestry
13 Policy regarding prime timberland. Yet Board Policy states: “the Board has found it in the
14 public interest: To oppose diversion to uses which preclude timber growing and harvesting
15 or (sic) such privately owned prime timberland and other lands...except where the public
16 values to be achieved by such diversion exceed the public values to be achieved by such
17 diversion exceed the public values derivable from timber growing.” (Board Policy, §
18 334.4.)

19 40. Although the DEIR quotes Policy 334.4 and several other like-minded policies, it
20 does not discuss the inconsistency between those policies and the Project, let alone how the
21 Project is in the public interest. When this oversight was brought to Cal-Fire’s attention, it
22 chose to ignore it.

23 41. The EIR’s failure to address the inconsistency between the Project and Board
24 Policies, including, but not limited to, section 334.4, violated CEQA and Guidelines, §
25 15125, subd. (d), and constituted a prejudicial abuse of discretion. (Pub. Res. Code, §§
26 21168, 21168.5; *Vineyard Area Citizens, supra*, 40 Cal.4th at pp. 426-427, 435.)
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Third Claim for Relief

42. Under CEQA, mitigation measures must be implemented and made enforceable through permit conditions, as *conditions* of approval, or through other means. (Pub. Res. Code, § 21081.6, subd. (b); CEQA Guidelines, §§ 15091, subds. (a), (d); 15126.4, subd. (a)(2).) In addition, a reporting or mitigation monitoring plan must be created to ensure compliance with mitigations during project implementation and enforcement. (Pub. Res. Code, §§ 21081, subd. (a)(1); 21081.6, subd. (a)(1); CEQA Guidelines, §§ 15091, subd. (d).)

43. Members of the public and scientists complained that the Project’s use of pesticides, fungicides, herbicides and fertilizers would have a number of adverse impacts, including, but not limited to, water quality, sensitive species, and humans.

44. The EIR maintained that various measures would substantially lessen these impacts, including, but not limited to, integrated pest management, Fish Friendly Farming, and a variety of restrictions on the time and weather conditions under which applications could take place.

45. In addition, because of public concern, the applicant indicated that it would ban the use of the surfactant POEA.

46. None of these measures, however, were implemented and made enforceable by any actions taken by Cal-Fire in approving the Project. In addition, the monitoring and implementation of these measures have not been made part of the mitigation monitoring plan.

47. The failure to make the mitigations enforceable and to ensure their implementation through the mitigation monitoring plan constitutes a prejudicial abuse of discretion. (Pub. Res. Code, §§ 21168, 21168.5.)

48. In addition, agencies must adopt feasible mitigation measures to lessen or avoid significant adverse environmental impacts. (Pub. Res. Code, §§ 21002, 21081, subd. (a);

1 CEQA Guidelines, §§ 15126-15126.4.) To be adequate, a mitigation measure must be
2 supported by substantial evidence. (*Laurel Heights, supra*, 47 Cal.3d at pp. 407-408.)

3
4 49. Because the mitigations relating to pesticides and similar substances as described
5 above are not enforceable, they are not supported by substantial evidence. This constitutes
6 a prejudicial abuse of discretion. (Pub. Res. Codes, §§ 21168, 21168.5; *Laurel Heights,*
7 *supra*, 47 Cal.3d at pp. 407-408.)

8 **Fourth Claim for Relief**

9 50. Members of the public expressed concern that if the vineyard was irrigated with
10 groundwater, especially during dry and drought years, such irrigation could have an
11 adverse impact on groundwater and streamflows.

12 51. The EIR indicated that groundwater would not be used for irrigation. Members of
13 the public requested an enforceable mitigation that prohibited the use of groundwater for
14 irrigation.

15 52. Cal-Fire refused to require such a mitigation, and responded that the public should
16 be satisfied because the applicant is going to the expense of constructing surface water
17 collection facilities.

18 53. Under CEQA, mitigation measures must be implemented and made enforceable
19 through permit conditions, as conditions of approval, or through other means. (Pub. Res.
20 Code, § 21081.6, subd. (b); CEQA Guidelines, §§ 15091, subds. (a), (d); 15126.4, subd.
21 (a)(2).) In addition, a reporting or mitigation monitoring plan must be created to ensure
22 compliance with mitigations during project implementation and enforcement. (Pub. Res.
23 Code, §§ 21081, subd. (a)(1); 21081.6, subd. (a)(1); CEQA Guidelines, §§ 15091, subd.
24 (d).)

25
26 54. The failure to make the groundwater use mitigation enforceable and to ensure its
27 implementation through the mitigation monitoring plan constitutes a prejudicial abuse of
28 discretion. (Pub. Res. Code, §§ 21168, 21168.5.)

1 (c) the EIR and Cal-Fire failed to adequately identify, evaluate, and mitigate the
2 possible significant environmental impacts of the proposed Project and its use of
3 pesticides, fungicides, herbicides, and related chemicals on the occupants of the
4 residence of Jamie Hall, and on the Halls' water supply.
5

6 59. Cal-Fire's failure to identify, evaluate, and mitigate potential significant
7 environmental impacts constitutes an abuse of discretion. Further, its conclusion that all
8 significant impacts were mitigated is not supported by substantial evidence. (Pub. Res.
9 Code, §§ 21168, 21168.5, 21002, 21081, subd. (a); CEQA Guidelines, §§ 15126-15126.4;
10 *Laurel Heights, supra*, 47 Cal.3d at pp. 407-408.)

11 **Sixth Claim for Relief**

12 60. The Project site contains numerous significant cultural resources, namely
13 archaeological sites, a number of which are eligible for listing with the National Register.
14

15 61. Several experts advised Cal-Fire that the site and surrounding area were rich in
16 such cultural resources and that the area should be designated an archaeological district.
17 Cal-Fire refused to consider designation of a district on the ground that it would require
18 investigation that might disturb archaeological artifacts and remains.

19 62. Cal-Fire's response is not rational. Any disturbance that may occur attempting to
20 locate archaeological resources is more than offset by their protection.

21 63. Cal-Fire's preferred strategy—to protect new sites if they are unearthed by logging
22 and other machinery—would appear to involve even greater disruption.

23 64. The lead agency is required to conduct "a thorough investigation" with respect to
24 significant impacts and its conclusion must be based on substantial evidence. (See Pub.
25 Res. Codes, §§ 21168, 21168.5, 21082.2; CEQA Guidelines, §§ 15144-15145.) The agency
26 must adopt feasible mitigation measures to lessen or avoid significant adverse
27 environmental impacts. (Pub. Res. Code, §§ 21002, 21081, subd. (a); CEQA Guidelines,
28 §§ 15126-15126.4.)

1 65. Cal-Fire's refusal to consider the protection of an archaeological district as a
2 mitigation violates CEQA and constitutes a prejudicial abuse of discretion. (Pub. Res.
3 Code, §§ 21168, 21168.5; *Vineyard Area Citizens, supra*, 40 Cal.4th at pp. 426-427, 435.)
4

5 **Seventh Claim for Relief**

6 66. In the final EIR, a lead agency must respond to significant environmental questions
7 raised by the public and other agencies in commenting on the draft EIR. (Pub. Res. Code,
8 § 21091, subd.(d).) "The evaluation and response to public comments is an essential part
9 of the CEQA process." (Discussion following CEQA Guidelines, § 15088.)

10 67. The lead agency's responses must show good faith and reasoned analysis;
11 conclusory responses will not suffice. (Guidelines, § 15088, subd. (c); *Gallegos v. State Bd.*
12 *of Forestry* (1978) 76 Cal.App.3d 945, 952-955 [response "must particularly set forth in
13 detail the reasons why the particular comments and objections were rejected"].)

14 68. Cal-Fire failed to properly respond to a number of public comments. These include
15 but are not limited to the following:

- 16 (a) comments regarding the Board of Forestry's policy against timberland conversions;
- 17 (b) comments regarding the Project's incompatibility with the Sonoma County General
18 Plan;
- 19 (c) comments regarding the proximity of the Hall residence to Project vineyards and to
20 applications of various chemicals;
- 21 (d) comments regarding the need for an archaeological district;
- 22 (e) comments regarding the use of groundwater for irrigation and the request that no
23 such use be made an enforceable mitigation;
- 24 (f) comments regarding alternatives;
- 25 (g) comments regarding soil pipes, micro-pores, and related features;
- 26 (h) comments regarding adverse impacts to the Hall's water supply;
- 27 (i) comments regarding adverse effects of lights at night;
- 28

1 Cal-Fire’s failure to respond to these and other comments constitutes a prejudicial
2 abuse of discretion. (Pub. Res. Code, §§ 21168, 21168.5; *Vineyard Area Citizens, supra*,
3 40 Cal.4th at pp. 426-427, 435.)
4

5 **Eighth Claim for Relief**

6 69. On December 30, 2009, the California Resources Agency, pursuant to SB 97,
7 adopted CEQA Guidelines for greenhouse gas (“GHG”) emissions. For example,
8 Guideline 15064.4 declares that a “lead agency should make a good-faith effort, based to
9 the extent possible on scientific and factual data, to describe, calculate or estimate the
10 amount of greenhouse gas emissions resulting from a project.” (CEQA Guidelines, §
11 15064.4.) Guideline 15064.4 sets forth factors a lead agency should consider in reaching a
12 significance determination, and states that a “lead agency should consider . . . [t]he extent
13 to which the project may increase or reduce greenhouse gas emissions as compared to the
14 existing environmental setting” (*Id.*) The Final Statement of Reasons for the CEQA
15 greenhouse gas Guidelines explains: “[15064.4(b)’s] reference to the ‘existing
16 environmental setting’ reflects existing law requiring that impacts be compared to the
17 environment as it currently exists.” (*See* California Natural Resources Agency, Final
18 Statement of Reasons for Regulatory Action, Amendments to the State CEQA Guidelines
19 Addressing Analysis and Mitigation of Greenhouse Gas Emissions Pursuant to SB 97 (Dec.
20 2009) at 24, *available at* <http://ceres.ca.gov/ceqa/guidelines/>; *Woodward Park*
21 *Homeowners Ass’n v. City of Fresno* (2007)150 Cal.App.4th 683, 709 [CEQA document
22 that compares a project’s impacts to “hypothetical conditions contemplated by [an]
23 existing plan and not with actual existing physical conditions . . . can only mislead the
24 public as to the reality of the impacts and subvert full consideration of the actual
25 environmental impacts which would result.”].)
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1 70. The Fairfax Project would result in the conversion of 154 acres of redwood forest.
2
3 As discussed in *Forests: Opportunities for Greenhouse Gas Emission Reduction in*
4 *Sonoma County*, the cumulative greenhouse gas (GHG) impacts of conversions are serious:

5 Over the past several years, Sonoma County has witnessed an increasing
6 threat of forestland conversion to non-forest uses, vineyards in particular.
7 Between 1990 and 1997, at least 1,630 acres of dense oak woodlands
8 were converted to vineyards and from 1989 to 2004, 851 acres of
9 timberland were approved for conversion, primarily to vineyards.

10 The climate impacts of this forestland conversion are twofold. First, the
11 conversion of these forestlands results in direct emissions of CO₂ to the
12 atmosphere. Second, the future capacity of the forest to remove additional
13 CO₂ from the atmosphere is significantly diminished because there is
14 very little chance that these lands will be restored to forests based on the
15 history of conversions in Sonoma County. The potential net difference
16 between the overall carbon stored in a vineyard and forestland could be
17 anywhere from 15 tons of carbon per acre to over a thousand tons per
18 acre, depending on several factors, including forest type, age, site class
19 and maturity and management of the vineyard. Such a reduction in overall
20 carbon stocks means net emissions of CO₂ to the atmosphere upon
21 conversion of the forestland to vineyards.

22 71. The GHG impacts of conversions are especially significant when redwood forests,
23 such as the one at issue in this case, are destroyed. As explained in *Winrock International,*
24 *Measuring and Monitoring Plans for Baseline Development and Estimation of Carbon*
25 *Benefits for Change in Forest Management in Two Regions, March 2004* (emphasis
26 added):

27 *Mature redwood stands are famous for their enormous stocks of standing*
28 *biomass and represent perhaps the most massive forests, per unit area, on earth.*
Measurements of old-growth (>200 years) redwood stands have yielded standing
carbon stocks ranging from 1,650 to 1,784 t C equivalent per ha (Hallin, 1934,
Westman and Whittaker, 1975, and Fujimori, 1977). *Equally impressive is the*
rate at which carbon is sequestered in growing redwood stands. A 100 year old
redwood stand measured by Olson et al (1990) yielded 3,600 cubic meters per
ha, equivalent to 648 t C per ha (at specific gravity 0.36 g oven dry biomass/cm³

1 for second-growth redwood (Markwardt and Wilson, 1935)), or a mean annual
2 carbon increment of 6.48 t C per ha per year.

3 72. Despite the substantial GHG impacts associated with the Fairfax Project, the EIR in
4 this case did not appropriately analyze those impacts, wrongly determined the impacts were
5 insignificant, and failed to properly avoid or mitigate the impacts. For instance, the EIR

6 (a) does not provide basic disclosures, or contain sufficient information, regarding its
7 GHG calculations;

8 (b) fails to compare the Project's GHG impacts to the existing environmental
9 conditions;

10 (c) wrongly relies on a hypothetical "business as usual" baseline thus masking the
11 actual GHG impacts of the Project; and

12 (d) erroneously concludes that the Project's GHG impacts are "less-than-significant"

13 73. Cal-Fire's improper GHG analysis constitutes a prejudicial abuse of discretion.
14 (Pub. Res. Code, §§ 21168, 21168.5.) Further, its conclusions regarding GHG impacts are
15 not supported by substantial evidence. (Pub. Res. Code, §§ 21168, 21168.5, 21081, subd.
16 (a); CEQA Guidelines, §§ 15126-15126.2; *Laurel Heights, supra*, 47 Cal.3d at p. 407.)
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19 WHEREFORE, Petitioners pray for judgment as follows:

20 1. For Writ of Mandate ordering Cal-Fire to set aside its approvals of the Project and
21 Timberland Conversion 530, and its certification of the Project's EIR.

22 2. For a permanent injunction enjoining real party, its agents, employees,
23 representatives, and all persons acting in concert or participating with it, from engaging in
24 any physical activity on the Project site, including timber harvesting, pursuant to
25 Timberland Conversion Permit 530, until it meets California statutes and regulations.

26 3. Alternatively, for a stay of Cal-Fire's decision approving the plan pending judgment
27 pursuant to CCP, § 1094.5 (g).
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4. For reasonable attorney's fees under California Code of Civil Procedure Section 1021.5.

5. For costs of suit.

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

Dated: June 6, 2012

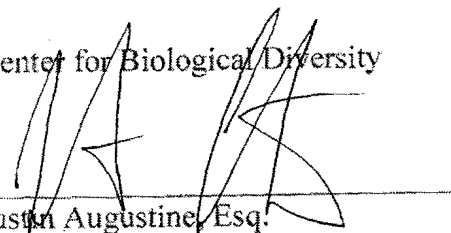
Paul V. Carroll, Attorney at Law



Paul V. Carroll, Esq.
Attorney for Petitioners Sierra Club,
Friends of the Gualala River

Dated: June 6, 2012

Center for Biological Diversity



Justin Augustine, Esq.
Attorney for Petitioner Center for
Biological Diversity

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VERIFICATION

I, Paul Carroll, declare as follows: I am an attorney admitted to practice before the courts of the State of California and have my office in Redwood City, County of San Mateo, California. I am the attorney for Petitioners Sierra Club and FoGR and am authorized to file this Petition. Petitioners are unable to make the verification because they are absent from San Mateo County. For that reason I make this Verification on Petitioners' behalf.

I have read the foregoing petition and know the contents thereof. The same is true of my own knowledge, except as to those matters stated on information and belief, which I am informed and believe are true, and on that basis allege them to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed on June 6, 2012, in Redwood City, California.



Paul Carroll

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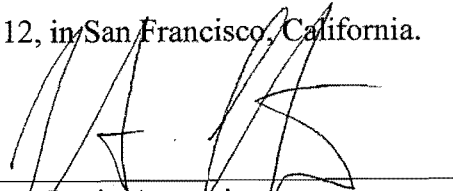
VERIFICATION

I have read the foregoing Petition for Writ of Mandate and know its contents. I am an attorney with the Center for Biological Diversity, a non-profit corporation, which is a party to this action. No officer of the corporation resides or has offices in the County where I reside. Therefore, pursuant to Code of Civil Procedure section 446, I make this verification, and am authorized by the corporation to do so.

I have read the petition and know its contents. The matters stated in it are true of my own knowledge except as to those matters that are stated on information and belief, and as to those matters I believe them to be true.

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I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed on June 6, 2012, in San Francisco, California.


Justin Augustine