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Attorney for Petitioner

SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY  
OF MONTEREY

HELPING OUR PENINSULA'S	)	Case No.: M
	)	
ENVIRONMENT, a non-profit	)	PETITION FOR WRIT OF MANDATE
	)	
association,	)	
	)	
Petitioner,	)	
	)	
vs.	)	
	)	
MONTEREY COUNTY BOARD OF	)	
	)	
SUPERVISORS,	)	
	)	
Respondent		

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Comes Now Petitioner to allege as follows:

FIRST CAUSE OF ACTION

I

Petitioner Helping Our Peninsula's Environment  
(H.O.P.E.) is an unincorporated association made up of residents  
of Monterey County who live in Monterey County, pay taxes in  
Monterey County, and recreate in Monterey County. The mission  
and purpose of Petitioner H.O.P.E is to represent the interests  
of its members in maintaining the bucolic nature and quality of

life in this area of Monterey County from those persons and entities who would harm vital imperiled species and their habitats in the County of Monterey, converting the County from relatively untouched native habitat and farmlands, to intensive residential and commercial uses, despite the existing deficit of the infrastructure to support intensive use in terms of water supply and roadway capacity and the loss of productive farmlands. Members of H.O.P.E. use and enjoy the water supply and roadways and deeply appreciate the remaining habitat which supports imperiled species that will be adversely impacted by the development provided in the new Monterey County General Plan contested herein. Petitioner H.O.P.E. has participated in various public hearings and provided more than a thousand pages of the best available science in numerous letters to help fashion healthy provisions for a new General Plan in Monterey County, including the administrative proceedings discussed below.

Petitioner is adversely affected and aggrieved by the decision described below of Respondent due to the vast intensification of land use called for in the new General Plan away from urban centers, on imperiled species habitats, and on existing farmlands, and which land uses will overload traffic corridors, irreversibly harm and remove imperiled species habitats and increase the adverse effects of groundwater overdrafting throughout the various aquifers making up Monterey

County. These adverse impacts will cause irreparable injury to the interests of Petitioner and the members thereof. Petitioner has exhausted all administrative remedies and has no adequate remedy at law.

## II

Respondent County of Monterey Board of Supervisors is the duly elected governing body of the County of Monterey charged with the duty of complying with various state laws when reviewing and approving a new general plan within Monterey County, California.

## III

On or about January 4, 2007, after a public hearing thereon, Respondent Monterey County Board of Supervisors approved the "Monterey County 2006 General Plan", a new general plan adopted pursuant to Government Code §65300 et seq. to guide land use decisions in Monterey County for the next 20 years

## IV

The Monterey County 2006 General Plan will have significant adverse environmental impacts as a result of the intensification of land use proposed in various areas of the County where there is presently little or no residential or commercial development. Those adverse impacts include, but are not limited to:

Water Supply: Various areas of Monterey County have aquifers from which the water is pumped to provide commercial, agricultural and domestic water supplies. Most of these aquifers

are severely overextended and some are thus threatened with salt water intrusion or inadequate annual recharge.

**Traffic:** When a roadway is operating at or near gridlock, the addition of a single new vehicle trip is a significant impact to existing residents and businesses. This new general plan will for the first time allow a significant increase in traffic in rural areas and a significant increase along the Highway 101 corridor through Monterey County. The traffic between the Salinas Valley and the Monterey Peninsula will substantially increase despite any policies in the new general plan to provide an infra-structure to ameliorate the impacts of such increased traffic.

**Incompatibility of land uses:** The new general plan allows development of rural centers which have little or no infra-structure of police and fire protection nearby, narrow roadways, and which convert agricultural lands to residential uses.

**Noise:** The new general plan only acknowledges and addresses average noise levels and ignores the impacts and harm from actual noises which including impulse or short term noises such as gun shots at a firing range, dogs barking, chainsaws and chippers, construction vehicles, truck back up beepers, and aircraft overflights.

**Imperiled Species:** Monterey County is home to more than 68 species that are officially protected by the Endangered Species Acts or Fully Protected Species Act. Only a fraction of them are

recognized in the General Plan. Local species that were not recognized include the Mountain Lion, Seaside Bird's Beak, Ringtail, Western Goshawk, American Peregrine Falcon, White Tailed-Kite, Coastal Dunes Rattleweed, Osprey, Northern Spotted Owl, and the California Spotted Owl. This Plan's allowance for expansion into their habitats will at the least, cause their displacement.

V

Respondent County of Monterey Board of Supervisors had a ministerial duty to cause to be prepared and considered an environmental impact report (EIR) prior to its decision to approve the new General Plan pursuant to the requirements of the California Environmental Quality Act, Public Resources Code §21000 et seq. In fact Respondent had caused to be prepared and considered the Final Program Environmental Impact Report on the Monterey County 2006 General Plan. However, Respondent abused its discretion in failing to follow the law as to what is required to be presented in an EIR. The General Plan Environmental Impact Report was and is legally inadequate in failing to perform its full disclosure function. The EIR was legally inadequate because:

1. It failed to adequately address the environmental impacts of the general plan policies on water supply, land use compatibility, local and regional traffic,

- impacts on sensitive habitats and endangered species,  
and other environmental issues;
2. The responses to comments on the draft EIR were incomplete, conclusory, and failed to provide meaningful information or analysis in response;
  3. Mitigation measures suggested by the public commenting on the EIR were ignored or dismissed without meaningful explanation;
  4. Mitigation measures that were approved were not adequately analyzed as to their efficacy and impacts;
  5. Alternatives to the policies in the general plan were ignored or dismissed with an uninformative conclusory analysis;
  6. It failed to acknowledge the addition of a single new vehicle trip is a significant impact to existing residents and businesses when the area in question is at Level-of-Service F;
  7. It failed to acknowledge the loss of a single individual of a species that is endangered is a mandatory significant adverse environmental impact as a matter of law.

For each of the foregoing reasons the General Plan Environmental Impact Report is legally deficient. Respondent County of Monterey Board of Supervisors abused its discretion by failing to perform its ministerial duty required

by law to have caused to be prepared and considered a legally adequate EIR prior to its adoption of the new general plan.

## VI

Implementation of the newly adopted General Plan will cause irreparable injury to the interests of Petitioners because land use decisions will be conforming to a general plan the impacts of which have not been fully analyzed and disclosed in an EIR. As a result public decisions which should be informed and consistent with a duly adopted general plan, will not be so informed. To the extent the EIR on the General Plan has failed to provide information and analysis, the cumulative impacts of decisions under the new general plan will not have been analyzed, ever. In order to avoid such irreparable injury, Petitioner is entitled to preliminary and permanent injunctive relief barring the use of this general plan to be the basis for any land use decisions.

Wherefore Petitioners pray for relief as follows:

1. For alternative and peremptory writs of mandate compelling the Monterey County Board of Supervisors to set aside its approval of the new general plan and to review any new general plan for approval only upon having caused to be prepared and considered a legally adequate environmental impact report.

2. For preliminary and permanent injunctive relief to preclude the use of this new general plan in making land use decisions;
3. For an award of costs and reasonable attorneys fees pursuant to Code of Civil Procedure §1021.5;
4. For such other and further relief as the Court deems just and reasonable.

Dated this 2nd day of February,  
2007

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**VERIFICATION**

I, David Dilworth, am an officer of the Plaintiff Helping Our Peninsula's Environment and am authorized to make this verification on its behalf. I have reviewed the allegations of the foregoing Petition For Writ of Mandate which allegations are true of my own knowledge. I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct. Executed this 2nd day of February, 2007, in Monterey County, California.

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David Dilworth, on  
behalf of H.O.P.E.

Dated this 30<sup>th</sup> day of January,  
2007

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