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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF TULARE
12

13 THE PEOPLE OF THE STATE OF)
14 CALIFORNIA, ex rel. ATTORNEY)
GENERAL EDMUND G. BROWN JR.,)

15 Petitioners,

16 v.

17 COUNTY OF TULARE, TULARE)
18 COUNTY BOARD OF SUPERVISORS)

19 Respondents.
20

21 SAM ETCHEGARAY, ETCHEGARAY)
DAIRIES,)

22 Real Parties in Interest.
23

Case No.:

**PETITION FOR WRIT OF
MANDATE**

**(California Environmental Quality
Act, Pub. Resources Code, §§
21168, 21168.5; Code of Civ. Proc.
§§ 1085, 1094.5)**

INTRODUCTION

1
2 1. Petitioners, the People of the State of California, ex rel. Attorney General
3 Edmund G. Brown Jr. (“the People”), bring this action challenging the approval by
4 Respondents County of Tulare (“Tulare County”) and its Board of Supervisors (“Board”)
5 of the Etchegaray Dairies (“Dairy Project”), two industrial mega-dairies with over 12,000
6 cows housed within close proximity to the Allensworth State Historic Park, a nationally
7 registered historic site honoring a pioneering Black settlement founded by a former slave.
8 On March 20, 2007, the Board approved the Dairy Project in violation of the California
9 Environmental Quality Act (“CEQA”; Pub. Resources Code, § 21000 *et seq.*)
10 Respondents failed to fully evaluate impacts to Allensworth State Park and other state
11 resources, failed to consider and adopt appropriate mitigation, and failed to consider
12 reasonable, less environmentally harmful, alternatives.

13 2. Allensworth State Park is the only park of its kind in California, and has
14 national historical significance as a federally-listed as a National Register Historic
15 District. Created in the 1970's, the park preserves a town founded by Colonel Allen
16 Allensworth as an agricultural haven for other former slaves and sharecroppers in the
17 Central Valley. Born a slave in 1842, Colonel Allensworth served in the U.S. military
18 during the Civil War, and was the first African-American to receive the rank of
19 Lieutenant-Colonel in the service. After the war, Colonel Allensworth came to the
20 Central Valley to create a community focused on achieving social, cultural, political and
21 economic self-sufficiency for its Black inhabitants. Today, the Allensworth State Park
22 serves as an inspiration to people of all races, and particularly to the African-American
23 community, as an exemplar of Black accomplishment and triumph over racial and
24 economic discrimination.

25 3. The People of the State of California own – and through the California
26 Department of Parks and Recreation (“Parks Department”) manage – the Allensworth
27 State Park, and have invested several million dollars to preserve and restore 21 historic
28 buildings in the settlement in order to provide visitors with an accurate portrayal of the

1 life of these courageous Black pioneers at the turn of the 20th century. Although it is
2 located in a remote location in the southwest corner of Tulare County, the park receives
3 thousands of visitors each year, is the site of several historical festivals, sponsors day use
4 recreation and camping facilities, and hosts busloads of schoolchildren encountering this
5 important piece of California history for the first time.

6 4. Respondents approved the siting of two industrial mega-dairies on a parcel
7 directly across a rural highway from the park. Over 12,000 dairy cows and support stock
8 will be kept in confined quarters only a mile from the core of the historic district,
9 generating over 20 tons of manure and 10,000 gallons of manure water daily. The waste
10 manure and water will be spread on the project site on land next to the park. The
11 enjoyment and experience of visitors to Allensworth State Park will be compromised by
12 the odors, flies and air and water pollution generated by these large dairies in such close
13 proximity. By bringing a large industrial dairy operation into the immediate
14 surroundings of the park, the Dairy Project threatens the park's historic integrity and its
15 function to convey an historically accurate picture of the way of life of the Allensworth
16 pioneers.

17 5. The Allensworth State Park, and the adjacent Dairy Project, are both
18 situated in between the federal Pixley National Wildlife Refuge and the state-owned
19 Allensworth Ecological Reserve. Numerous state and federally listed threatened,
20 endangered, rare, and special-status species are known to occur in the vicinity of the park
21 and the proposed project. The park and its surroundings, including the project site, serve
22 as an important wildlife habit connection between these two natural areas; this function is
23 threatened by the construction, operation and waste discharges of the two dairies.

24 6. CEQA requires that a public agency undertaking a project with the
25 potential to harm the environment must prepare an environmental impact report ("EIR")
26 that uncovers, analyzes, and fully discloses the reasonably foreseeable effects on the
27 environment of the project, and adopts all feasible measures available to mitigate those
28 effects. Here, even though the Dairy Project is adjacent to an important state park and

1 ecological reserve, Respondents approved the Final Environmental Impact Report
2 (“FEIR”) for the Dairy Project without meaningfully evaluating and identifying the
3 impacts on the unique historical resources and setting of Allensworth State Park, on the
4 specific visitor uses and experience of the park, on the habitats and viability of various
5 endangered and threatened species present in the adjacent state and federal wildlife
6 refuge and ecological reserve, and on the already degraded air and water quality of the
7 area. Because it fails to analyze and sufficiently describe the impacts of the project, the
8 FEIR concomitantly fails to present and adopt feasible mitigation for each of the impacts
9 as required by CEQA. In addition, the FEIR fails to properly analyze alternatives to the
10 proposed Dairy Project, including more compatible alternative locations for the dairies.

11 7. This is an action for injunctive relief under CEQA against the Respondents.
12 The People seek a writ of mandate to set aside Respondents’ approval of the certification
13 of the FEIR and the Dairy Project, and a court order to provide environmental review and
14 mitigation in compliance with CEQA.

15 PARTIES

16 8. Attorney General Edmund G. Brown Jr. is the chief law officer of the State
17 of California. He has broad independent powers under the California Constitution and
18 the California Government Code to participate in all legal matters in which the State is
19 interested, which include protecting California’s environment and its natural resources.
20 (Cal. Const., art. V, § 13; Gov. Code, § 12511.) The California Legislature has given the
21 Attorney General a unique role to participate in actions concerning pollution and adverse
22 environmental effects which could affect the public or the natural resources of the State.
23 (Gov. Code, §§ 12600-12612.) Government Code section 12600 specifically provides:
24 “It is in the public interest to provide the people of the State of California through the
25 Attorney General with adequate remedy to protect the natural resources of the State of
26 California from pollution, impairment, or destruction.” Petitioner People of State of
27 California, ex rel. Attorney General Edmund G. Brown Jr., files this Petition for Writ of
28 Mandate pursuant to the Attorney General’s independent power and duty to protect the

STATEMENT OF FACTS

1
2 14. The Dairies Project includes the development of two new dairies on one
3 parcel in southwestern Tulare County: the Earlimart Ranch Dairy to be located on 160
4 acres in the northeast corner of the parcel, to house 5,715 animals (milk cows plus
5 support stock); and, the Phillips Ranch Dairy to be located on 160 acres approximately
6 one mile to the west, to house 6,535 milk cows and support stock. The rest of the 2,692-
7 acre parcel will remain in agricultural production, and will be used to dispose of liquid
8 and solid manure wastes from the dairies.

9 15. The project site lies directly east of State Highway 43; the community of
10 Allensworth and the Allensworth State Park lie on the other side of the highway. The
11 two areas where the 12,000 animals will be confined are located just barely outside a
12 one-mile “windshed” boundary surrounding Allensworth, the minimum distance allowed
13 between a new dairy and an existing community under Tulare County’s Animal
14 Confinement Facilities Plan policies.

15 16. The buffer zone was adopted arbitrarily, based solely on the past practice of
16 the County to use a one-mile community “windshed” during “the last 25 years” as the
17 “appropriate separation” to avoid potential conflicts between dairies and communities.
18 (ACFP/DPEIR, Response to Comments, pp. 29-30.) Similarly, the County has
19 arbitrarily adopted a minimum 1,000 feet buffer zone around public parks. (*Id.*) The
20 administrative record for the Dairy Projects contains no evidence or analysis of the actual
21 odor impacts that would be reasonably expected from confining 12,000 plus cows just
22 one-mile away from Allensworth State Park, or from the spreading of waste manure and
23 manure water from the Dairy Project on the parts of the parcel next to the park.

24 17. The People of the State of California have considerable interest and
25 investment in Allensworth State Park, which is visited by thousands of people each year
26 for day use recreational and educational purposes and for camping. The proposed Dairy
27 Project directly impacts this unique state park. The prospect of two industrial dairy
28 operations, with attendant flies, odors and air pollution, on a parcel next to the park

1 threatens the historical integrity of Allensworth Park and the protection of the People's
2 investment in this important component of the state park system.

3 18. Other state resources are threatened by the Dairy Project. The operation
4 and proposed waste disposal associated with the dairies presents threats to the quality of
5 surface and ground waters at and adjacent to the site, and the riparian, wetland, and
6 upland habitats adjacent to and within the project site, including in both the Pixly
7 National Wildlife Refuge located to the north of the project and the California
8 Department of Fish and Game's Allensworth Ecological Reserve located to the south and
9 east. In addition, the Dairy Project will add at least 155 tons per year of reactive organic
10 gases, 30 tons per year of nitrogen oxides, .13 tons of particulate emissions, 2540 tons of
11 methane, and nearly 600 tons of ammonia to an air quality basin already seriously out of
12 compliance with many state and federal air quality standards.

13 19. Tulare County prepared and circulated, on March 20, 2006, a draft EIR for
14 the Dairy Project. Public hearings were conducted on the EIR and project by the Tulare
15 County Planning Commission on May 17, June 14, July 26, and August 9, of 2006.

16 20. The Parks Department presented comments on the draft EIR during the
17 public comment period. The Parks Department's comments reflected concerns about the
18 failure of the draft EIS to analyze and identify the impacts of the project on the unique
19 historic resources and visitor experience of Allensworth State Park, and the failure to
20 consider a sufficient range of alternatives, as well as the deficiencies in proposed
21 mitigation. On June 13, 2006, the California Department of Fish and Game also
22 submitted written comments expressing concerns with the adequacy of the biological
23 survey conducted for the EIR, and the threats to protected species and habitat and
24 degradation of ground and surface water quality posed by the project. Numerous other
25 parties commented on the inadequacy of the draft EIR, and testified in opposition to the
26 Dairy Project. All of these comments were made prior to the close of the public hearing
27 on the project before the issuance of the Notice of Determination and are part of the
28 administrative record connected with the approval of the Dairy Project.

1 21. On or about July of 2006, Tulare County released the FEIR, consisting of
2 the draft EIR, the comments on the draft, and the responses to those comments.
3 Numerous comments were submitted on the FEIR, including but not limited to a
4 September 7, 2006 letter from the Department of Fish and Game stating that the impacts
5 to water quality and protected species and habitat had still not been adequately addressed.
6 Subsequent responses to additional comments were issued by Respondents in August
7 2006 and September 2006. All of these comments were made prior to the close of the
8 public hearing on the project before the issuance of the Notice of Determination and are
9 part of the administrative record.

10 22. At a public hearing on September 13, 2006, the Planning Commission
11 declined to either approve or deny the Dairy Project, and instead took no action on the
12 project, referring it to the Board for further action. The project applicant filed an appeal
13 of the Planning Commission's failure to act on the application. The Board of
14 Supervisors held public hearings on the project and FEIR on October 24, 2006 and
15 December 5, 2006, and took final action to approve the Dairy Project and FEIR on
16 March 20, 2007.

17 23. The FEIR fails to identify and analyze potential adverse impacts on
18 Allensworth State Park. In particular, the FEIR fails to consider the special significance
19 of the unique historical resources at the park, as required under CEQA whenever a
20 project may materially alter a historic resource or its immediate surroundings. Despite
21 Allensworth's historical significance and the importance of maintaining the integrity of
22 its surroundings in order to preserve its historical significance, the FEIR contains no
23 description of the specific public uses of the facilities and buildings at the park. Instead,
24 it states only that the buildings are largely "unoccupied." The FEIR fails to even make
25 mention of the national historical significance of the park. Instead of a detailed
26 examination of the air and water emissions from locating 12,000 cows and disposing of
27 their waste on property adjacent to the park and how those emissions will effect the
28 visitor experience and the historic character of the park, the FEIR contains only a

1 conclusion, unsupported by any factual evidence, that because the animals will be
2 confined greater than 1000 feet away from the park, and because the dairies are
3 technically outside the one-mile community “windshed” boundary, no odor, fly or air
4 pollution impacts will occur. Reliance on an arbitrary buffer zone does not constitute
5 legally adequate analysis under CEQA.

6 24. The FEIR fails to adequately address whether any cultural resources
7 associated with the Allensworth State Park exist on the project site or in the vicinity.

8 25. Failure to identify impacts to Allensworth State Park results in a
9 concomitant failure to identify feasible mitigation measures to avoid or minimize any
10 effects that may be significant.

11 26. In its role as a Trustee Agency under CEQA, the California Department of
12 Fish and Game identified critical biological resources near the project site that could be
13 effected by the Dairy Project, and in particular by wastewater runoff from the project site.
14 Yet, the FEIR fails to properly recognize or analyze those impacts. Accordingly, in
15 approving the FEIR and the Dairy Project, Tulare County also has failed to adopt
16 adequate mitigation measures to reduce the significant impacts on the wildlife habitat and
17 candidate, special-status and sensitive species and other biological resources that occur in
18 the vicinity of the proposed project site.

19 27. The FEIR improperly concludes that the Etchegaray Dairies will have no
20 significant impact on water quality. In doing so, the FEIR fails to properly consider
21 relevant evidence in the record indicating that there are permeable soils in the area, and
22 that if levees for wastewater retention ponds should fail, groundwater may be
23 contaminated. The FEIR also fails to properly consider the history of flooding in the
24 area, that adjacent wildlife refuges have been impacted by dairy runoff in the past, and
25 that the project site is located in an area with very shallow groundwater. The FEIR uses
26 outdated assumptions regarding nitrogen and salt excretions applicable to discharges
27 from dairy wastewater, and as a result, the project fails to provide sufficient land to
28 ensure disposal of wastewater in a manner that will not degrade water quality. Tulare

1 County fails to adopt, and improperly defers to the State Water Resources Control Board
2 for adoption of, reasonable mitigation measures to minimize these impacts.

3 28. The FEIR fails to adequately analyze the effects of air emissions from the
4 Dairy Project on local and regional air quality, or on regional efforts to meet federal air
5 quality standards required to be met under applicable federal law. Instead of disclosure
6 and analysis regarding whether expected air emissions from the projects will result in
7 significant impacts on air quality and human health, the FEIR improperly substitutes
8 improper conclusory findings of significance. For examples, the FEIR fails to include
9 any modeling or other projections of the effects on air quality of the expected emission of
10 reactive organic gases from the project; fails to include any estimation of nitrogen oxide
11 emissions on local and regional air quality; fails to consider any impacts from formation
12 of secondary particulates from the interaction of ammonia emissions with nitrogen oxides
13 and other pollutants; fails to properly assess expected air quality effects of small size
14 particulate emissions; fails to provide any bases for evaluating the relative contribution of
15 ammonia emissions from the project in relation to regional pollutant loads; fails to
16 provide any meaningful analysis of the emissions of methane, a greenhouse gas; fails to
17 calculate hydrogen sulfide emissions or effects; and fails to perform a meaningful
18 cumulative impacts analysis of the project's emissions to basin-wide pollution levels.
19 Further, the mitigation measures proposed to reduce air quality impacts are vague,
20 unenforceable, and of limited efficacy. The FEIR improperly fails to require feasible
21 mitigation measures, such as purchase of air pollution offsets, or to consider other
22 feasible mitigation measures, such as particulate trap technology or use of alternative
23 fuels for diesel farm vehicles.

24 29. The FEIR fails to identify and analyze reasonable alternatives to the Dairy
25 Project, or to the location of the project. The FEIR considers only two alternatives in
26 addition to the no-project alternative: a dairy with the same size herd on a different,
27 larger parcel; and a reduced herd size. The FEIR concludes, based on an improper
28 reliance on economic considerations, that these alternatives are not feasible. More

1 significantly, the FEIR fails to consider other reasonable alternatives such as locating a
2 similar sized dairy on a parcel further away from Allensworth State Park and the
3 Allensworth Ecological Reserve. In particular, the FEIR fails consider siting the dairies
4 on alternative parcels owned by the project applicant.

5 30. Despite the deficiencies in the FEIR set forth above, on March 20, 2007,
6 Respondents certified the FEIR and approved the Dairy Project.

7 31. The Notice of Determination announcing Tulare County's decision was
8 filed with the Tulare County Clerk on March 27, 2007.

9 32. The certification of the FEIR was accompanied by the approval of a
10 Statement of Overriding Considerations, even though Respondents had not described all
11 environmental impacts of the project, nor considered all feasible mitigation for those
12 impacts or alternatives to the project, in the FEIR.

13 33. Unless restrained by the Court, Respondents will proceed with the Dairy
14 Project without complying with the requirements of CEQA. If construction proceeds
15 without compliance with this law, the People will suffer great and irreparable harm. The
16 People have no plain, adequate and speedy remedy at law.

17 34. Section 21177 of the Public Resources Code requiring exhaustion of
18 administrative remedies is not applicable to the Attorney General.

19 35. This petition is excused from verification pursuant to subdivision (a) of
20 section 446 of the Code of Civil Procedure.

21 36. The People have complied with the requirements of Public Resources
22 Code section 21167.5. A copy of the written notice provided to Tulare County and a
23 proof of service, as required by that provision, is attached as Exhibit "A" to this petition.

24 **STATUTORY AND REGULATORY REQUIREMENTS**

25 37. CEQA requires the preparation of an EIR in order to identify the
26 significant effects on the environment of a project, so that measures to mitigate or avoid
27 those effects, or alternatives that avoid those effects, can be devised. (Pub. Resources
28 Code, §§ 21002.1(a), 21060.) Compliance with the procedural requirements of CEQA to

1 conduct an adequate analysis of environmental impacts sets the stage for development of
2 mitigation measures and alternatives. Without this proper procedural foundation, a local
3 agency cannot comply with CEQA's mandate that public agencies should not approve
4 projects as proposed if there are feasible alternatives or feasible mitigation measures
5 available which would substantially lessen the significant environmental effects of such
6 projects. (Pub. Resources Code, § 21002.)

7 38. CEQA's fundamental goals are to foster informed decision making and to
8 fully inform the public about the project and its impacts. (Cal. Code Regs., title 14, §
9 15003.)

10 39. An environmental impact report must provide public agencies and the
11 public in general with detailed information about the effect that a project is likely to have
12 on the environment, to list ways in which the significant effects of a project might be
13 minimized, and to indicate alternatives to such a project. (Pub. Resources Code, §
14 21061.) California Code of Regulations, title 14, section 15126.2, requires that the FEIR
15 identify the significant environmental impacts of the project, including direct and indirect
16 impacts. California Code of Regulations, title 14, section 15126.4, requires that the
17 FEIR describe all feasible measures that can minimize significant adverse impacts of the
18 project. CEQA does not allow an agency to defer analysis of impacts and mitigation
19 measures to another agency which may subsequently approve an aspect of the project.
20 (Cal. Code Regs., title 14, § 15126.4, subd. (a)(1)(B).)

21 40. In conducting a CEQA analysis of potential impacts on a historical site, a
22 public agency is specifically required to consider whether the project will result in
23 substantial adverse changes, including "alteration of the resource or its immediate
24 surroundings such that the significance of an historical resource would be materially
25 impaired." (Cal. Code Regs., title 14, § 15064.5, subd. (b)(1).)

26 41. California Code of Regulations, title 14, section 15126.6, requires that the
27 FEIR describe a range of reasonable alternatives to the project or its location, which
28 would feasibly attain most of the basic objectives of the project, but would avoid or

1 substantially lessen any of the significant impacts of the project. Comparative merits of
2 the alternatives should be evaluated.

3 **FIRST CAUSE OF ACTION**

4 (Pub. Resources Code, §§ 21168, 21168.5; Respondents' Failure to
5 Adequately Analyze Impacts of the Project on Allensworth State Park.)

6 42. The allegations of paragraphs 1 through 41 are incorporated into this cause
7 of action by reference as though set forth fully herein.

8 43. Respondents violated section 15126.2 of title 14 of the California Code of
9 Regulations, in that the FEIR does not adequately identify all significant environmental
10 impacts of the Project. In particular, Respondents failed to consider the adverse impacts
11 to a registered historical resource, as required by subdivision (b)(1) of section 15064.5 of
12 title 14 of the California Code of Regulations. Defects in the FEIR include, but are not
13 limited to, the following:

- 14 a. The FEIR does not adequately describe the impacts of odor, flies
15 and dust from the Dairy Project on the historical resources at, and
16 the historical integrity of, Allensworth State Park.
- 17 b. The FEIR does not adequately describe the impacts of the Dairy
18 Project on the visitor experience and specific public uses of the
19 facilities and buildings at the park.

20 44. Respondents' actions in approving the FEIR and the Dairy Project, without
21 adequately analyzing all significant environmental impacts of the Project, are arbitrary
22 and capricious, without evidentiary support, a prejudicial abuse of discretion and are not
23 in accordance with law.

24 **SECOND CAUSE OF ACTION**

25 (Pub. Resources Code, §§ 21168, 21168.5; Respondents' Failure to
26 Adequately Analyze Impacts of the Project on Other State Resources.)

27 45. The allegations of paragraphs 1 through 44 are incorporated into this cause
28 of action by reference as though set forth fully herein.

1 46. Respondents violated section 15126.2 of title 14 of the California Code of
2 Regulations, in that the FEIR does not adequately identify all significant environmental
3 impacts of the Project. Defects in the FEIR include, but are not limited to, the following:

4 a. The FEIR does not adequately describe and analyze the impacts of
5 the Dairy Project on the biological resources at and around the
6 Allensworth Ecological Reserve and the Pixly National Wildlife
7 Refuge.

8 b. The FEIR does not adequately describe and analyze the impacts of
9 the Dairy Project on degradation of ground water and surface water
10 at and around the project site.

11 c. The FEIR does not adequate describe and analyze the air quality
12 impacts of the Dairy Project.

13 47. Respondents' actions in approving the FEIR and the Dairy Project, without
14 adequately analyzing all significant environmental impacts of the Project, are arbitrary
15 and capricious, without evidentiary support, a prejudicial abuse of discretion and are not
16 in accordance with law.

17 **THIRD CAUSE OF ACTION**

18 (Pub. Resources Code, §§ 21168, 21168.5; Respondents' Failure to
19 Adequately Describe All Feasible Mitigation Measures for Impacts of the Project.)

20 48. The allegations of paragraphs 1 through 47 are incorporated into this cause
21 of action by reference as though set forth fully herein.

22 49. Respondents violated section 15126.4 of title 14 of the California Code of
23 Regulations in that the FEIR does not adequately describe all feasible measures that can
24 minimize significant adverse impacts of the Dairy Project, including, but not limited to,
25 the following defects:

26 a. The FEIR does not adequately address how the impacts to the
27 historical integrity, the visitor experience and the public use of the
28 facilities and buildings at Allensworth State Park will be mitigated.

- 1 b. The SEIR does not adequately describe all feasible mitigation
- 2 measures to address the significant air and water quality impacts
- 3 associated with the project.
- 4 c. The SEIR does not adequately describe all feasible mitigation
- 5 measures for the impacts to the biological resources and wildlife
- 6 habitat contained in and around the Allensworth Ecological Reserve
- 7 and the Pixly National Wildlife Refuge.

8 50. Respondents have failed to adopt mitigation measures that are specific,
 9 enforceable, and efficacious.

10 51. Respondents’ actions in approving the FEIR and the Dairy Project, without
 11 adequately analyzing all feasible mitigation for all significant environmental impacts of
 12 the Project, and deferring this discussion for later processes, are arbitrary and capricious,
 13 without evidentiary support, a prejudicial abuse of discretion and are not in accordance
 14 with law.

FOURTH CAUSE OF ACTION

(Pub. Resources Code, §§ 21168, 21168.5; Respondents’ Failure to
 Adequately Analyze All Reasonable Alternatives.)

18 52. The allegations of paragraphs 1 through 51 are incorporated into this cause
 19 of action by reference as though set forth fully herein.

20 53. Respondents violated section 15126.6 of title 14 of the California Code of
 21 Regulations in that, despite significant impacts of the Project to Allensworth State Park,
 22 the FEIR does not adequately discuss alternatives that would avoid these impacts to the
 23 state park, such as siting the dairies on an alternative parcel owned by the project
 24 applicant, or on an alternative parcel of the same or similar size. The FEIR’s flawed
 25 analysis of two alternatives – a reduced herd size or siting a dairy with the same size herd
 26 on a different but larger parcel – does not constitute an adequate analysis of the
 27 comparative merits of a reasonable alternatives, as required by CEQA.

28

1 or development of any kind on the Dairy Project site, Respondents must prepare,
2 circulate, and adopt a revised FEIR in accordance with the requirements of CEQA;

3 4. Petitioners' cost of suit; and

4 5. Such other relief as the Court deems just and proper.

5
6 Dated: April 19, 2007

Respectfully Submitted,

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of the State of California
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