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6 SONOMA COUNTY WATER COALITION, *et al.*

7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF SONOMA

10 SONOMA COUNTY WATER COALITION, )  
NORTH COAST RIVERS ALLIANCE, )  
11 WESTSIDE ASSOCIATION TO SAVE )  
AGRICULTURE, ATASCADERO CREEK )  
12 GREEN VALLEY CREEK WATERSHED )  
COUNCIL, O.W.L. FOUNDATION, RUSSIAN )  
13 RIVER WATERSHED PROTECTION )  
COMMITTEE, BELLEVUE TOWNSHIP, )  
14 SEBASTOPOL WATER INFORMATION )  
GROUP, FRIENDS OF THE EEL RIVER, )  
15 PETALUMA RIVER COUNCIL, COAST )  
ACTION GROUP, BLUCHER CREEK )  
16 WATERSHED COUNCIL, COMMUNITY )  
ALLIANCE WITH FAMILY FARMERS, )  
17 FOREST UNLIMITED and ELEANOR )  
18 KNEIBLER, )

19 Petitioners/Plaintiffs, )

20 v. )

21 SONOMA COUNTY WATER AGENCY, )  
SONOMA COUNTY WATER AGENCY )  
22 BOARD OF DIRECTORS (aka SONOMA )  
COUNTY BOARD OF SUPERVISORS), and )  
23 DOES 1-20, inclusive, )

24 Respondents/Defendants, )

25 and DOES 21-50, inclusive, )

26 Real Parties in Interest. )  
27 \_\_\_\_\_ )  
28

Civ. No.

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

1 By this verified petition petitioners/plaintiffs represent:

2 **PRELIMINARY STATEMENT**

3 1. Petitioners/plaintiffs (“petitioners”) bring this action to protect the extraordinary  
4 beauty, threatened water quality, endangered fish and wildlife, and outstanding recreational  
5 values of the Russian and Eel Rivers, the priceless agricultural resources within their  
6 watersheds, and the domestic and agricultural wells of rural landowners throughout Sonoma  
7 County. Respondents/defendants Sonoma County Water Agency, et al.’s (“respondents”)  
8 current 2005 Urban Water Management Plan (“UWMP” or “Plan”) fails to adequately and  
9 accurately inventory, assess and allocate ground and surface water resources, overlooks ground  
10 and surface water contamination, overstates water supplies, understates water demands, and thus  
11 threatens to induce unsustainable urban development throughout the area that will outpace water  
12 supplies. Without a complete and accurate Plan, such growth will overwhelm the available  
13 surface and groundwater resources and cause wide-scale degradation of important environmental  
14 resources throughout Sonoma County.

15 2. The Russian River is the largest river system within Sonoma County. Flowing over  
16 100 miles from its headwaters in Sonoma and Mendocino Counties, and draining a watershed of  
17 about 1,500 square miles (including over 920 square miles in Sonoma County), the Russian  
18 River and its tributaries are home to chinook and coho salmon and steelhead trout, and are the  
19 County’s most widely used riverine recreational resources. Due to declining water quality and  
20 quantity, all three species of the Russian River’s salmonids are now threatened with extinction.  
21 The Central California Coast coho salmon was listed as threatened by the former National  
22 Marine Fisheries Service (now known as the National Oceanic and Atmospheric Administration  
23 – Fisheries (NOAA – Fisheries)) on October 31, 1996 (61 Federal Register 56138). The Central  
24 California Coast steelhead trout was listed as threatened by NOAA – Fisheries on August 18,  
25 1997 (62 Federal Register 43937). NOAA – Fisheries listed the California Coastal chinook  
26 salmon as threatened on September 16, 1999 (64 Federal Register 50393).

27 3. The water quality of the Russian River and its tributaries has been adversely  
28 impacted by altered flows (and adjacent water tables), increasing sediment, elevated summer

1 water temperatures, increasing contamination by pathogens, mercury and other pollutants, and  
2 declining dissolved oxygen levels. These adverse changes in water quality degrade habitat for  
3 salmonids and other fish and wildlife, and impair consumptive water uses for agricultural and  
4 municipal purposes. As a consequence of this declining water quality, the Russian River has  
5 been designated as water quality-impaired under section 303(d) of the Clean Water Act by the  
6 United States Environmental Protection Agency and the State Water Resources Control Board.  
7 The declining water quality in the river has allowed the proliferation of predatory and competing  
8 introduced aquatic species, including the Sacramento pikeminnow. The pikeminnow is now one  
9 of the most widespread predators of juvenile salmonids in the Russian River due in part to  
10 unnaturally increased summer flows that create habitat conditions more favorable to warm water  
11 species than to salmonids. Petitioners are harmed by the declining water quality of the Russian  
12 River and its tributaries, because they, along with many other residents of Sonoma County,  
13 enjoy these water bodies for recreational, scientific, agricultural, domestic, and aesthetic  
14 purposes.

15 4. Groundwater resources within the Russian River Watershed and elsewhere in  
16 Sonoma County have likewise declined in quality and quantity over the past several decades,  
17 due to degradation of the natural hydrogeology of the Russian River and its tributaries,  
18 excessive river diversions and groundwater pumping, removal of riparian vegetation, terrace and  
19 instream gravel mining, and contamination due to incompatible surface uses including  
20 hydrocarbon pollution in and adjacent to cities. Gravel mining in the terraces adjacent to the  
21 Middle Reach of the Russian River between Healdsburg and Windsor has eliminated or  
22 impaired thousands of acre-feet of groundwater storage historically provided by the deep alluvial  
23 deposits on either side of the Russian River within this reach. Deep terrace gravel mining,  
24 which extends up to 90 feet deep to impermeable clay, impedes the movement of groundwater to  
25 and from the Russian River because the walls of the resulting pits self-seal with fine sediments.  
26 Thus, terrace gravel mining not only eliminates the groundwater storage that was previously  
27 provided by the gravel that has been extracted, it also prevents the lateral movement of  
28 groundwater from the river to recharge adjacent aquifers when the river is high and the aquifers

1 are low, and reverse flows when water tables are high and river flows are low. Instream gravel  
2 mining has lowered the thalweg, or streambed, of the Russian River by more than 20 vertical  
3 feet in its Middle Reach below Healdsburg, in turn reducing the adjacent groundwater storage by  
4 over 100,000 acre feet. Declining groundwater quality and quantity harms the domestic and  
5 agricultural wells of rural landowners and all other public uses and natural resources that are  
6 dependent on ground- and surface-water interchange flows.

7 5. Sonoma County's population grew from 299,684 in 1980 to 458,614 in 2000,  
8 according to the Sonoma County General Plan 2020 Draft Environmental Impact Report  
9 released in January 2006 ("General Plan DEIR") at 3.0-15. Sonoma County's population is  
10 projected to grow to over 546,000 by 2020, an increase of 19 percent from 2000. *Id.* This  
11 growth is enabled in major part by water supplied by respondents to cities, water districts, and  
12 individual customers. Unless respondents engage in informed land use and water resource  
13 planning based on an up-to-date and adequate Urban Water Management Plan, this substantial  
14 urban growth threatens severe impairment of surface and groundwater quantity and quality,  
15 harming agricultural, recreational, municipal and industrial uses of ground and surface waters.  
16 According to the General Plan DEIR, "[d]ue to the lack of comprehensive information regarding  
17 the County's groundwater resources, it is uncertain if groundwater supplies would be sufficient  
18 to meet the future demand of rural private domestic, small municipal and agricultural wells.  
19 This uncertainty combined with the current regulatory approach *could result in insufficient*  
20 *groundwater supplies in rural areas of the county.*" *Id.* at 6.0-22, Significant Unavoidable  
21 Impact 4.9-2, emphasis added.

22 6. At the same time that Sonoma County's population is *growing*, its ability to  
23 accommodate and sustain this growth is *declining*. Harmful ground and surface water  
24 management practices in the past, including excessive groundwater pumping and surface water  
25 diversions, road building and other construction on steep slopes and in erosive soils, excessive  
26 and ill-designed gravel mining, and other harmful resource extraction practices, have impaired  
27 and in some cases severely depleted the County's watershed resources and ground- and surface-  
28 water recharge systems. As a consequence, now more than ever before, Sonoma County

1 urgently needs careful watershed and water supply analysis and planning, and careful monitoring  
2 and regulation of land use and water resource development.

3 7. In the absence of a complete and accurate UWMP, as required by the Urban Water  
4 Management Planning Act, Water Code section 10610 *et seq.* (“UWMPA” or “Act”), neither the  
5 Sonoma County Water Agency (“SCWA”) nor Sonoma County can perform its statutory duties  
6 in the planning, management and regulation of Sonoma County’s imperiled ground and surface  
7 water resources, nor will either be able to accurately plan for, or accommodate, future  
8 population growth. For these reasons, petitioners ask this Court to require respondents to  
9 correct their UWMP so that it accurately assesses all significant threats to ground and surface  
10 water quality and quantity, potential limitations on the future availability of water supplies, the  
11 demands on those supplies, and all reasonable mitigation measures and alternatives that may be  
12 utilized to protect and restore the quality and quantity of Sonoma County’s water supplies in the  
13 future.

#### 14 **LEGAL BACKGROUND**

15 8. Declaring that “[t]he waters of the state are a limited and renewable resource  
16 subject to ever increasing demands,” and that “[t]he conservation and efficient use of urban  
17 water supplies are of statewide concern,” in 1983 the California Legislature adopted the  
18 UWMPA. Water Code §§10610.2(a), (b). In requiring that “urban water suppliers” such as  
19 SCWA develop “water management plans to achieve conservation and efficient use,” the  
20 UWMPA imposed specific duties on each water supplier to “[i]dentify and quantify, to the  
21 extent practicable, the existing and planned sources of water available to the supplier,” including  
22 both surface and groundwaters. Water Code §§10610.4(c), 10631(b). The UWMPA directs  
23 further that each water supplier “shall include, as part of its urban water management plan, an  
24 assessment of the reliability of its water service to its customers during normal, dry, and multiple  
25 dry water years” and shall “describe plans to supplement or replace” potentially unreliable or  
26 unavailable future sources with “alternative sources.” §10631(c).

27 9. Water Code section 10631 establishes detailed requirements for water management  
28 plans, directing, *inter alia*, that they

- 1 (a) “[d]escribe the service area of the [water] supplier, including current and  
2 projected population, climate, and other demographic factors affecting the  
3 supplier’s water management planning;”
- 4 (b) “[i]dentify and quantify, to the extent practicable, the existing and planned  
5 sources of water available to the supplier,” including detailed information  
6 respecting existing and planned use of groundwater;
- 7 (c) “[d]escribe the reliability of the water supply and vulnerability to seasonal  
8 or climatic shortage” of supplies in average, dry, and multiple dry water  
9 years, and “[f]or any water source that may not be available at a consistent  
10 level of use, given specific legal, environmental, water quality, or climatic  
11 factors, describe plans to supplement or replace that source with alternative  
12 sources or water demand management measures;”
- 13 (d) “[d]escribe the opportunities for exchanges or transfers of water on a short-  
14 term or long-term basis;”
- 15 (e) quantify past, current, and projected water use, broken down by specific  
16 water use sectors;
- 17 (f) “[p]rovide a description of the supplier’s water demand management  
18 measures,” including detailed information regarding their implementation  
19 with respect to a wide array of existing or potential management practices;
- 20 (g) provide “[a]n evaluation of each water demand management measure  
21 identified;”
- 22 (h) “[i]nclude a description of all water supply projects and water supply  
23 programs that may be undertaken by the urban water supplier to meet the  
24 total projected water use,” including “a detailed description of expected  
25 future projects and programs” that may be employed to increase future water  
26 supplies;
- 27 (i) “[d]escribe the opportunities for development of desalinated water;” and  
28 (j)-(k) provide additional information regarding water supply and demand  
management measures.

22 §10631. In sum, the Act requires a detailed description and analysis of current and future water  
23 demands and supplies, a reliability study of the water sources included in the plan, and a clear  
24 description of alternative water sources that could be used to fill potential gaps in the plan’s  
25 future water supplies. *See, Friends of the Santa Clara River v. Castaic Lake Water Agency*  
26 (2004) 123 Cal.App.4th 1, 12-15 (“*Friends IF*”).

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1 **VENUE AND JURISDICTION**

2 10. This verified petition and complaint is authorized by Water Code section 10650 *et*  
3 *seq.* and Code of Civil Procedure section 1085 *et seq.* Its request for declaratory relief is  
4 authorized by Code of Civil Procedure section 1060. Its request for injunctive relief is  
5 authorized by Code of Civil Procedure sections 526 and 527 and Civil Code section 3422.

6 11. Venue is appropriate in Sonoma County because most of SCWA's service area is  
7 located within Sonoma County, and respondents' threatened overuse of the ground and surface  
8 water resources of the Russian River and related watersheds would harm the water quality and  
9 quantity of such river and watersheds and the scenic, fish and wildlife, agriculture, and  
10 recreational uses dependent thereon that are situated within Sonoma County. Under Code of  
11 Civil Procedure section 393, subdivisions (a) and (b), respondents may be sued in the County of  
12 Sonoma because petitioners' causes of action arose therein. Under Code of Civil Procedure  
13 section 395, subdivision (a), respondents may be sued in the County of Sonoma because most of  
14 SCWA's water service area is located within said county.

15 **PARTIES**

16 12. Petitioner Sonoma County Water Coalition ("Coalition") is an unincorporated  
17 association founded in March 2004 as a forum for other organizations to exchange water-related  
18 information and develop water policy recommendations in Sonoma County. The Coalition now  
19 includes more than thirty organizations with a combined membership of over 25,000  
20 individuals. During the last three years, the Coalition has submitted comments on most major  
21 water policy matters in Sonoma County, including the Sonoma County General Plan Update and  
22 the SCWA's Water Supply, Transmission and Reliability Project Scoping. The Coalition has  
23 also produced letters in support of nominations to state water agencies, op-ed articles for local  
24 newspapers and informational notices advocating improved water policies. The Coalition hosts  
25 meetings twice a month in Santa Rosa, California. The Coalition maintains a website at  
26 <http://www.SCWaterCoalition.org>. The Coalition brings this action to protect and restore the  
27 ground and surface water resources of Sonoma County.  
28

1           13.   Petitioner North Coast Rivers Alliance (“NCRA”) is a non-profit unincorporated  
2 association whose members reside, work, or recreate in the vicinity of the Russian River.  
3 NCRA was formed for the purpose of protecting the Russian River and the other rivers of  
4 California’s North Coast from the adverse effects of excessive water diversions, ill-planned  
5 urban development, harmful resource extraction, pollution, and other forms of degradation. Its  
6 members use and enjoy the Russian River and other rivers of California’s North Coast for  
7 recreational, aesthetic, scientific study, and related non-consumptive uses. NCRA has  
8 repeatedly urged the Sonoma County Board of Supervisors to adopt an adequate 2005 UWMP in  
9 order to provide data and analysis essential to the County’s informed preparation of its 2020  
10 General Plan, to no avail. The interests of NCRA and its members have been, are being, and  
11 unless the relief requested herein is granted, will be adversely affected and injured by SCWA’s  
12 failure to adopt an adequate UWMP and by the consequent ill-designed development, excessive  
13 resource extraction, and unplanned increases in demands on ground and surface water supplies  
14 that may result from SCWA’s deficient UWMP.

15           14.   Petitioner Westside Association to Save Agriculture (“WASA”) is a nonprofit  
16 public benefit corporation formed under the laws of California in 1984 for the purpose of  
17 engaging in public education and advocacy to promote the protection and restoration of  
18 agricultural lands and uses on the west side of the Middle Reach of the Russian River generally  
19 south of the City of Healdsburg (“Westside area”). WASA’s members reside along the Middle  
20 Reach of the Russian River and currently enjoy the rural quality of life, natural environmental  
21 amenities, quiet, open space, and productive and healthy agricultural lands and uses that  
22 presently exist within the Westside area and depend, in large part, on the continued vitality of  
23 both the Russian River and the groundwater resources of its Middle Reach. WASA and its  
24 members have repeatedly urged the Sonoma County Board of Supervisors to adopt an adequate  
25 UWMP for use in the County’s ongoing preparation of its 2020 General Plan, to no avail. The  
26 interests of WASA and its members have been, are being, and unless the relief requested herein  
27 is granted, will be adversely affected and injured by SCWA’s failure to adopt an adequate  
28



1 UWMP and by the consequent ill-conceived development, excessive resource extraction and  
2 unplanned increases in demands on ground and surface water supplies that threaten to ensue.

3 15. Petitioner Atascadero Creek Green Valley Creek Watershed Council (“AGVWC”)  
4 is an unincorporated association formed in the year 2000 to promote stewardship of the  
5 Atascadero-Green Valley watershed, a sub-basin of the Russian River watershed, through  
6 protection, restoration, and education efforts. AGVWC has approximately twenty-five active  
7 members, and emails monthly updates to over one hundred community members. Board  
8 members are elected annually, and meetings are held monthly in Sebastopol, California.  
9 AGVWC has joined this suit out of its concern for sound management of water resources in the  
10 Russian River basin.

11 16. Petitioner O.W.L. Foundation (Open space, Water resource protection and Land  
12 use) is a California non-profit corporation dedicated to informing the public and elected officials  
13 about the severity of the current water crisis and the technical methods available to resolve the  
14 crisis. Formed in 2003 by concerned Sonoma County citizens, O.W.L. has successfully  
15 prosecuted a public interest lawsuit against the City of Rohnert Park over a flawed Water Supply  
16 Assessment under Water Code sections 10910-10912. O.W.L. operates three important  
17 projects: the Sebastopol Water Information Group (“SWiG”), the Petaluma River Council and  
18 the Laguna Preservation Council. O.W.L. has also produced several videos on water topics, and  
19 conducted educational water forums. O.W.L. board members have made numerous public  
20 presentations around the county on water-related topics.

21 17. Petitioner Russian River Watershed Protection Committee (“RRWPC”) is a  
22 nonprofit corporation founded in 1980. Its purpose is to work in the public interest to protect  
23 the health of the Russian River. RRWPC has about 1,400 supporters who are mostly property  
24 owners along the lower Russian River. About one-third of them live in other parts of the Bay  
25 Area and come to the River where they use their second homes for summer relaxation and  
26 recreation. RRWPC engages in public education to persuade governmental agencies to protect  
27 the Russian River’s water quality, quantity and watershed, as the lower Russian River is the sink  
28 for all polluting activities occurring upstream. RRWPC attends meetings of numerous agencies

1 including the Sonoma County Board of Supervisors and Planning Commission, the Sonoma  
2 County Water Agency, the City of Santa Rosa, including its Board of Public Utilities and  
3 associated subcommittees, the North Coast Regional Water Quality Control Board, the State  
4 Water Resources Control Board, the Russian River Watershed Association, the Sonoma County  
5 Water Advisory Committee (WAC), and others. RRWPC has worked with many local  
6 environmental groups active on water issues including the Sonoma County Water Coalition,  
7 Sonoma County Conservation Council, and numerous ad hoc committees. RRWPC is currently  
8 a member of the Citizens Advisory Committee for State Parks. RRWPC keeps its supporters  
9 and environmental activists informed through emails, letters to supporters every other month,  
10 and articles and letters to local newspapers. It analyzes and provides comment and testimony on  
11 water and wastewater project environmental impact reports, National Pollutant Discharge  
12 Elimination System permits, proposed Regional Water Quality Basin Plan Amendments, Clean  
13 Water Act section 303(d) listings, and Sonoma County General Plan policy documents.  
14 RRWPC notifies the public of important upcoming meetings and occasionally conducts letter  
15 writing campaigns to influence administrative policy decisions. When other efforts fail,  
16 RRWPC participates in lawsuits to enforce laws that protect the Russian River from  
17 environmental harm.

18 18. Petitioner Bellevue Township is an unincorporated neighborhood organization  
19 located in the historic Todd Road Stony Point area of unincorporated Sonoma County. Its  
20 members have organized to prevent further depletion of groundwater supplies, stop encroaching  
21 urban sprawl, reduce pollution and lessen growing traffic problems. Bellevue Township brings  
22 this action to protect and restore the ground and surface water resources of the Santa Rosa plain.

23 19. Petitioner Sebastopol Water Information Group (“SWiG”) is an unincorporated  
24 non-profit community organization whose members include experts in the fields of earth and  
25 water science, and other disciplines relevant to the study and protection of the groundwater  
26 resources in the Sebastopol area. SWiG members research ground and surface water  
27 information, monitor water levels in private wells, track well water contamination in and near  
28 Sebastopol, and provide advice and information to individual well owners. SWiG experts and

1 members also provide public testimony on local, countywide, and regional water issues. SWiG  
2 brings this proceeding to compel respondents to properly and fully assess Sonoma County's  
3 ground and surface water supplies and demands.

4         20. Petitioner Friends of the Eel River ("FOER") is a nonprofit public benefit  
5 corporation formed under the laws of California in 1998, for the purpose of protecting and  
6 restoring the Eel River, a state- and federally-designated Wild and Scenic River, and its  
7 watersheds through public education and advocacy. FOER's mission is to return the Eel River  
8 and its tributaries to a natural state of abundance, wild and free. The immediate goal of FOER is  
9 to remove two antiquated dams known as the Potter Valley Project that block hundreds of miles  
10 of prime spawning and rearing ground, and dewater the river by diverting over 160,000 acre feet  
11 annually to the Russian River. FOER has approximately 2,000 members who reside and work  
12 throughout Northern California, including Humboldt, Mendocino, Sonoma, Marin and San  
13 Francisco counties, and enjoy recreational and commercial activities from touring to fishing,  
14 camping and hiking, throughout the Eel River watershed. FOER and its members have  
15 repeatedly requested that SCWA and the cities it serves work with Pacific Gas & Electric  
16 Company, owner of the Potter Valley Project, to end these harmful diversions. In 2003 FOER  
17 successfully prosecuted an action against respondents under the California Environmental  
18 Quality Act, Public Resources Code section 21000 *et seq.* ("CEQA"). The ruling in this case,  
19 *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, requires  
20 respondents to engage in improved environmental decisionmaking regarding the impacts of their  
21 diversions from the Russian River on the Eel River. FOER has continued to urge SCWA and its  
22 contracting cities to adopt improved water supply and watershed management practices and  
23 policies to reduce their overall water demands. FOER is harmed by respondents' UWMP  
24 because it fails to adequately address these important issues as necessary for completion of an  
25 adequate Sonoma County General Plan and for adoption of improved water demand and supply  
26 management practices throughout respondents' service area.

27         21. Petitioner Petaluma River Council ("PRC") is an unincorporated neighborhood  
28 association, in existence since 1991. Its purpose has been to protect, restore and revitalize the

1 Petaluma River and its watershed, through public education, political and legal advocacy, and  
2 policy development. PRC's members live in Petaluma and southern Sonoma County. PRC's  
3 members have enjoyed the river, its tributaries and the Petaluma Marsh for decades. Its  
4 members have worked to bring higher visibility to issues and opportunities regarding the  
5 Petaluma River, from protecting and improving wildlife, fisheries and habitat, to improving  
6 water quality and urban runoff, flood management practices, wastewater treatment and disposal  
7 practices, and supporting tourism, boating, education and scientific research. PRC has been a  
8 plaintiff in several lawsuits under CEQA and the federal Clean Water Act to advance these  
9 issues, and has participated in proceedings before the California Public Utilities Commission  
10 challenging privatization of Petaluma's municipal wastewater treatment plant. PRC has worked  
11 for years to persuade respondents, the County of Sonoma and the City of Petaluma to improve  
12 water supply, wastewater treatment and watershed management. PRC is harmed by the  
13 UWMP's failure to accurately and adequately address water supply, discharge and recycling  
14 needs and opportunities.

15 22. Petitioner Coast Action Group is a non-profit public benefit corporation comprising  
16 residents of the coastal regions of Sonoma and Mendocino Counties. Its purpose is to preserve  
17 the environmental quality of California's North Coast and to ensure that environmental laws  
18 protecting coastal resources are enforced. Coast Action Group members include North Coast  
19 residents with an interest in ocean and river preservation, commercial and sport fishing  
20 enthusiasts, ranchers, owners of coastal-dependent businesses, and recreational users of the local  
21 rivers and ocean. For three decades Coast Action Group has participated in legal actions to  
22 protect the North Coast environment, including litigation to protect the beneficial uses of waters  
23 under section 303(d) of the federal Clean Water Act, and actions under the California Public  
24 Resources and Water Codes to prevent degradation of surface waters and their watersheds.  
25 Coast Action Group has submitted written and oral comments related to water quality, forestry  
26 issues, and fisheries protection to the California Board of Forestry, California Regional Water  
27 Quality and State Water Resources Control Boards, California Department of Forestry,  
28 California Department of Fish and Game, National Marine Fisheries Service (now known as

1 NOAA-Fisheries), U.S. Fish and Wildlife Service, local planning agencies, and state and federal  
2 legislators.

3 23. Petitioner Blucher Creek Watershed Council (“BCWC”) is an unincorporated  
4 association of concerned citizens and neighbors living in the Blucher Creek Watershed. BCWC  
5 was formed in 1991 to protect the unique plant and wildlife habitat and water quality of the  
6 watershed. Currently BCWC has approximately 60 members. The BCWC has five principal  
7 goals: protecting the watershed ecosystem, educating watershed residents about local wildlife  
8 and endangered species, researching the Blucher Creek watershed aquifer, monitoring for local  
9 environmental compliance, and networking with other watershed groups to share and leverage  
10 environmental conservation efforts. Over the past decade BCWC has conducted over forty  
11 education and outreach presentations to its members and the community primarily on  
12 environmental protection and conservation topics including habitat restoration along the Blucher  
13 Creek, groundwater management and recharge, efforts to protect the Laguna de Santa Rosa, and  
14 natural pest management. The BCWC has also successfully managed and coordinated a well  
15 monitoring service and program for BCWC members that is providing groundwater awareness  
16 and developing an historic record of groundwater levels.

17 24. Petitioner Community Alliance with Family Farmers (“CAFF”) is a statewide  
18 California non-profit membership organization that focuses on three basic areas of  
19 programmatic work in California: development of local community food systems, creation of  
20 environmentally sustainable farming systems, and enactment of state and local policies that  
21 support these efforts. CAFF’s Biological Agriculture Program works with farmers to reduce the  
22 use of toxic chemicals, plant on-farm habitat and increase biodiversity, and in general reduce  
23 farms’ impacts on air and water quality. CAFF’s Community Food Systems Program consists of  
24 three primary projects: Farm-to-School (F2S), which provides nutrition education in the  
25 cafeteria and classroom; the Growers Collaborative, a social venture business and California  
26 Department of Food and Agriculture-licensed distributor that sells produce on behalf of small  
27 family-owned farms to public schools and hospitals; and Buy Fresh, Buy Local (BFBL), a local  
28 food branding campaign that is active in the Central Coast, the Bay Area, and Sacramento,

1 where CAFF maintains a policy representative. CAFF has played a leading role over the past 25  
2 years in public advocacy for the safe use of pesticides including requiring health and  
3 groundwater impact studies; the passage of the birth defects prevention act; the provision of  
4 more in-stream water for fish and wildlife; the development of direct-marketing programs for  
5 family farms, including the use of WIC coupons at farmers' markets; on-farm wastewater  
6 treatment; and the establishment and funding of sustainable agriculture programs at the  
7 University of California. The Northcoast Chapter of CAFF, headquartered in Healdsburg, has  
8 been working to protect land and water for agriculture for many years in Sonoma and  
9 neighboring counties.

10 25. Petitioner Forest Unlimited is a non-profit public benefit corporation organized  
11 under the laws of California for the purpose of protecting, restoring and enhancing the forests  
12 and watersheds of Sonoma County. Forest Unlimited educates the public about logging plan  
13 review, forestry law, and watershed management and regulation. Forest Unlimited brings this  
14 action because the UWMP fails to adequately inventory Sonoma County's watershed resources,  
15 to evaluate current and future demands on their ground and surface waters, and to protect these  
16 resources for future generations.

17 26. Petitioner Eleanor Kneibler is a Sonoma County cattle rancher concerned about the  
18 continuing degradation of the County's ground and surface waters. Ms. Kneibler is harmed by  
19 respondents' UWMP because it fails to provide an adequate inventory of the County's ground  
20 and water resources, and fails to fully and fairly assess the growing disparity between the  
21 County's diminishing water supplies and the increasing demand for them.

22 27. All petitioners are beneficially interested in respondents' compliance with their  
23 duties and responsibilities under applicable laws including the UWMPA and the Public Trust  
24 Doctrine. Petitioners are beneficially interested in respondents' performance of their duty under  
25 Code of Civil Procedure section 1085 *et seq.* to comply with all applicable laws and to consider  
26 rationally and in good faith all relevant record evidence in preparing and adopting their UWMP.

27 28. Petitioners have no plain, speedy, or adequate remedy in the ordinary course of law  
28 within the meaning of Code of Civil Procedure section 1086. Poorly planned, unsustainable

1 urban development, and resource extraction without the long-term water supply planning  
2 required by the UWMPA, will result in irreparable harm to petitioners. Such development will  
3 further degrade the Russian River and other important surface and groundwater resources in  
4 Sonoma County by increasing surface diversions and groundwater pumping, reducing flows,  
5 impairing water quality and quantity, and threatening the fish and wildlife and agricultural and  
6 domestic uses dependent on the County's waters. These impacts will harm petitioners' use and  
7 enjoyment of the environmental resources of the Russian River, the Eel River, and their  
8 watersheds. Such environmental harm is unlawful and irreparable. Therefore petitioners are  
9 entitled to this Court's writ of mandate and declaratory and injunctive relief requiring  
10 respondents to correct the significant errors and omissions in their 2005 UWMP.

11 29. Respondent Sonoma County Water Agency ("SCWA"), also known as the Sonoma  
12 County Flood Control and Water Conservation District, is a special district created in 1949 by  
13 the California Legislature to act as the local sponsor for federal flood protection and water  
14 supply projects known collectively as the Russian River Project. Stats. 1949, c. 994. In that  
15 capacity, SCWA currently diverts up to 75,000 acre-feet annually from the Russian River for  
16 municipal, industrial and agricultural uses. SCWA's customers include Marin Municipal Water  
17 District, North Marin Water District, City of Petaluma, City of Rohnert Park, City of Santa  
18 Rosa, City of Sonoma, Valley of the Moon Water District, Town of Windsor, City of Cotati,  
19 Forestville Water District, the California-American Water Company, and several other water  
20 companies and public agencies. SCWA is an urban water purveyor subject to the provisions of  
21 the UWMPA. Water Code § 10617. The five-member Sonoma County Board of Supervisors  
22 functions as SCWA's *ex officio* Board of Directors. Stats. 1949, c. 994, § 4, as amended. The  
23 Board of Directors / Board of Supervisors approved the subject UWMP on December 12, 2006,  
24 and filed the UWMP with the California Department of Water Resources on December 19,  
25 2006.

26 30. SCWA is charged by law with responsibility for administering and assuring  
27 compliance with the requirements of the UWMPA. SCWA must coordinate long-term water  
28 supply planning with existing and projected land use development by reference to accurate

1 information contained within the UWMP. Because SCWA's UWMP contains significant errors  
2 and omissions, such coordination is impossible. Continuing land use development approvals  
3 issued within SCWA's service area in the absence of an adequate UWMP threaten to preempt  
4 the water planning process by siting development prior to the creation of an adequate, long-term  
5 water supply plan.

6 31. Petitioners are currently unaware of the true names and capacities of Does 1-20,  
7 inclusive, and, therefore, sue those parties by such fictitious names. Does 1-20, inclusive, are  
8 agents of the respondents or are responsible in some manner for the conduct described in this  
9 petition. Petitioners will amend this petition to state the true names and capacities of these  
10 fictitiously named parties if and when the same have been ascertained.

11 32. Petitioners are currently unaware of the true names and capacities of Does 21-50,  
12 inclusive, and, therefore, sue those parties by such fictitious names. Does 21-50, inclusive, have  
13 an economic or other interest in the subject UWMP. Petitioners will amend this petition to state  
14 the true names and capacities of these fictitiously named parties if and when the same have been  
15 ascertained.

16 33. Prior to respondents' adoption of the UWMP, petitioners, public agencies, other  
17 organizations and members of the public submitted comments regarding the errors and  
18 omissions in the content, analysis, and conclusions of the UWMP, including the deficiencies  
19 addressed below in this petition.

20 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

21 34. Petitioners have performed any and all conditions precedent to the filing of this  
22 petition, and participated in all phases of the administrative, legislative, and environmental  
23 review process preceding respondents' adoption of the UWMP, and thus have fully exhausted  
24 their administrative remedies prior to instituting this proceeding.

25 35. Respondents have taken final agency action with respect to their approval of the  
26 UWMP challenged herein. Petitioners possess no remedy to challenge respondents' approvals  
27 of the UWMP at issue in this proceeding other than by means of this lawsuit.

28 ///





1 interest; a significant benefit will be conferred upon the general public and a large class of  
2 persons arising from enforcement of state laws and regulations protecting the quantity and  
3 quality of the State's waters and associated public trust interests; and the necessity and financial  
4 burden of private enforcement are such as to make the award appropriate. Petitioners are also  
5 entitled to recover their attorney's fees pursuant to Government Code section 800, which  
6 authorizes the award of up to \$7,500 in attorney's fees to petitioners in actions to overturn  
7 agency actions, such as those at issue herein, that are arbitrary and capricious. Additionally,  
8 petitioners request reimbursement of their litigation costs pursuant to Code of Civil Procedure  
9 section 1032, subdivision (b), which provides in pertinent part that: "[e]xcept as otherwise  
10 expressly provided by statute, a prevailing party is entitled as a matter of law to recover its costs  
11 in any action or proceeding."

12 **FIRST CAUSE OF ACTION**

13 **(Writ of Mandate, Declaratory and Injunctive Relief**  
14 **to Set Aside Respondents' Approval of UWMP as Contrary to the UWMPA)**

15 **(Alleged by All Petitioners Against All Respondents/Defendants/  
16 Real Parties in Interest)**

17 40. Petitioners hereby reallege and incorporate herein by reference the paragraphs set  
18 forth above, as if fully set forth herein.

19 41. The UWMPA requires respondents to prepare and adopt an urban water  
20 management plan containing detailed information and analysis sufficient to assure that current  
21 and future water supplies are adequate to provide for current and projected populations within  
22 the water agency's service area. *See* Water Code §§10620-10656.

23 42. In adopting the UWMP, respondents proceeded without or in excess of their  
24 jurisdiction, committed an abuse of discretion, failed to proceed in the manner required by law,  
25 and failed to make supporting findings that are in turn supported by substantial evidence in light  
26 of the whole record, as alleged more specifically hereinbelow.

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1 **1. SCWA's UWMP Identifies Potential Future Water Supply Shortfalls, but Fails to**  
2 **Adequately Describe Solutions.**

3 43. The UWMPA requires that water agencies identify realistic alternatives to sources  
4 of water that may become unreliable or that may not meet identified future demands during  
5 normal, dry, and multiple dry water years. According to the Act,

6 For any water source that may not be available at a consistent level of use, given  
7 specific legal, environmental, water quality, or climatic factors, [the UWMP shall]  
8 describe plans to supplement or replace that source with alternative sources or  
water demand management measures, to the extent practicable.

9 Water Code § 10631(c). The Act also requires the water agency to disclose “all water supply  
10 projects . . . that may be undertaken . . . to meet the *total projected water use . . .*” *Id.* at  
11 section 10631(h), emphasis added. In short, the Act requires planners to come up with an  
12 exhaustive plan, complete with contingencies, to meet all projected future water demands.

13 44. Contrary to this directive, respondents state in Section 7 of the Plan that they plan  
14 to have adequate water supplies throughout the planning period “except for single-dry years,  
15 starting in 2020.” Plan at 7-1. On the following page, Table 7-6 identifies shortfalls ranging  
16 from 2,646 afy to 15,479 afy by 2030. The Plan fails to identify the specific measures by which  
17 respondents will close the gap, stating only that “the Agency will have to work with its  
18 contractors to reduce water demands, utilize emergency local sources, or both.” Plan at 7-1.  
19 The “emergency local sources,” defined broadly as “conservation, storage and re-use,” are never  
20 specifically identified and no specific methods of reducing water demands are described.

21 45. “When any water source may not be available at a consistent level of use, the  
22 UWMP must describe plans to replace that source with alternative sources.” *Friends of the*  
23 *Santa Clara River v. Castaic Lake Water Agency* (2004) 123 Cal.App.4th 1, 14, citing Water  
24 Code § 10631, subd. (c). Because respondents concede that they may be unable to meet the total  
25 projected need of single-dry years in the future, the UWMPA requires respondents to identify  
26 alternative water sources needed to bridge the gap. The Plan fails to do so. Instead, it merely  
27 discloses this substantial potential water supply shortfall and then moves on without comment.  
28

1           46. The purpose of the UWMPA is “to provide assistance to water agencies in carrying  
2 out their long-term resource planning responsibilities to ensure adequate water supplies to meet  
3 existing and future demands for water.” Water Code § 10610.2(b). By ignoring their duty to  
4 prevent the potential for a large-scale water shortage in the future, respondents fail to fulfill their  
5 obligations under the UWMPA. *Friends of the Santa Clara River v. Castaic Lake Water*  
6 *Agency, supra*, 123 Cal.App.4th at 14-15. Accordingly, this Plan should be set aside.

7  
8           **2. SCWA Failed to Coordinate with FERC and NOAA Fisheries, the**  
9           **State Water Resources Control Board, and the U.S. Army Corps of Engineers.**

10           47. Respondents have failed to comply with Water Code section 10620(d)(2), which  
11 requires that “[e]ach urban water supplier shall coordinate the preparation of its plan with other  
12 appropriate agencies in the area, including . . . relevant public agencies, to the extent  
13 practicable.”

14           48. Respondents failed to consult with the state and federal agencies that exercise  
15 control over future water supplies in the SCWA’s service area, including the Federal Energy  
16 Regulatory Commission (FERC), NOAA Fisheries, the State Water Resources Control Board,  
17 and the U.S. Army Corps of Engineers. Plan at 1-2. As the Plan concedes, FERC retains  
18 authority over the Potter Valley Project (PVP), which diverts more than 159,000 acre feet  
19 annually from the Eel River to the Russian River, supplying most of the Russian River’s  
20 summer flow. Plan at 1-4; *Friends of the Eel River v. Sonoma County Water Agency, supra*, 108  
21 Cal.App.4th at 866. NOAA Fisheries (along with the State Water Resources Control Board and  
22 the U.S. Army Corps of Engineers) control water releases from Warm Springs Dam (Lake  
23 Sonoma) on Dry Creek, a principal tributary of the Russian River, and from Coyote Dam (Lake  
24 Mendocino) on the Russian River’s main stem.

25           49. Together, water from the PVP, Warm Springs Dam and Coyote Dam provides at  
26 least three-fourths of respondents’ summer water supply from the Russian River. Plan at 2-4.  
27 Failure to consult with all of the agencies that ultimately control this water violates Water Code  
28 section 10620(d)(2).

1 **3. The Plan Assumes That Water Diversions from Warm Springs Dam Will Not Be**  
2 **Reduced in Order to Protect Threatened and Endangered Species in the Russian**  
3 **River.**

4 50. In the Plan's "Assumptions" section, respondents assume that "the listing of three  
5 salmonid species as threatened or endangered under the Endangered Species Act (ESA) will not  
6 reduce the amount of water [the Russian River] can supply, principally from the water stored in  
7 Lake Sonoma (Warm Springs Dam), using its Russian River diversion facilities." Plan at 1-4.  
8 No basis for respondents' assumption is provided.

9 51. Respondents' assumption is not supported by any facts or analysis, and appears to  
10 be untenable. The Russian River's fisheries, including its three endangered and threatened  
11 salmon species, are suffering potentially devastating decline. Respondents' presupposition that  
12 federal agencies will do nothing to counteract this decline and save the dwindling fish  
13 populations from extinction is contrary to both federal law and historical precedent, and ignores  
14 the strong likelihood that water diversions will be curtailed in the future to protect fish –  
15 especially in dry years when respondents have not made alternative arrangements.

16 **4. The Plan Assumes That Water Diversions from the PVP Will Not Be Reduced to**  
17 **Protect Threatened and Endangered Species in the Eel and Russian Rivers.**

18 52. The Plan similarly assumes, without further analysis, that the FERC license for the  
19 PVP "will not be modified, or that any license modifications (and the terms of any new license)  
20 will not reduce the amount of water available for diversion by the Agency." Plan at 1-4.  
21 Respondents' assumption, however, fails to take into account the fact that the PVP license is  
22 subject to Endangered Species Act ("ESA") restrictions and other federal environmental laws,  
23 and therefore may be subject to flow adjustments at any point in the future when necessary to  
24 protect fish and wildlife, including during critically dry and multiple dry years. A likely  
25 scenario, and one that should have been examined in the UWMP, would involve FERC  
26 decreasing the amount of water pumped into the Russian River from the Eel River when FERC  
27 reconsiders the PVP license in the year 2022 (or even earlier if warranted by ongoing studies).  
28 A downward adjustment to the water supply derived from the PVP would adversely affect

1 respondents' total water supply. The UWMP does not address this easily foreseeable possibility,  
2 and should have.

3 53. For similar reasons, the California Court of Appeal struck down respondents'  
4 abortive EIR on its recent proposal to increase Russian River diversions from 75,000 to 101,000  
5 acre feet annually. *Friends of the Eel River v. Sonoma County Water Agency, supra*, 108  
6 Cal.App.4th at 869-870. In that case, the court pointed out that “[t]he record tells a far different  
7 story from the one the Agency relates in its EIR . . . . the Agency was well aware at the time the  
8 EIR was drafted that the proposals pending before FERC, if approved, would limit its ability to  
9 supply water to its customers . . . .” *Id.* at 869. So too here, respondents are aware that FERC  
10 might reduce SCWA’s Potter Valley Project diversions when that project comes up for licensing  
11 renewal in 2022, or sooner. Respondents’ failure to address this scenario in the Plan violates the  
12 UWMPA.

13 **5. SCWA Failed to Explore Alternative Sources of Water to Compensate for Potential**  
14 **Losses of Russian River Water.**

15 54. To address the uncertainties surrounding the future availability of Russian River  
16 water for diversion, respondents should have examined potential alternative water supplies to  
17 compensate for the shortfalls that curtailed Russian River pumping might create. As explained  
18 above, the Act requires respondents to identify alternatives “[f]or any water source that may not  
19 be available at a consistent level of use, given specific legal, environmental, water quality, or  
20 climatic factors.” Water Code § 10631(c).

21 55. Where, as here, a major source of water may be curtailed in the future, respondents  
22 must “describe plans to supplement or replace” the curtailed water source with “alternative  
23 sources or water demand management measures” in order to ensure that future water supplies  
24 are as reliable as practicable. Yet respondents admit that they have “no plans to replace  
25 [decreases in Russian River water availability] with alternative sources.” Plan at 4-25, Table 4-  
26 17, fn. a.

27 56. Furthermore, the Plan has not considered the possibility of global warming-induced  
28 water shortages, despite the likelihood (as documented in expert testimony by Professor Robert

1 R. Curry and others) that Russian River flows and other water sources will become erratic, and  
2 decrease in the summer when water demand is greatest. Respondents have made no plans to  
3 compensate for this potential loss.

4 **6. SCWA Failed to Examine Alternatives to the Water Project.**

5 57. The UWMP fails to develop alternatives to uncertain sources. It takes for granted a  
6 group of planned future projects, collectively called the Water Supply, Transmission, and  
7 Reliability Project (“Water Project”). This Water Project would substantially increase SCWA’s  
8 Russian River diversions, by up to one-third. Respondents assume that they will construct and  
9 operate all of the facilities now planned for the Water Project. Plan at 1-4. Yet, the Plan admits  
10 that

11 State and federal agencies, including the National Marine Fisheries Service (under  
12 the ESA) and the State Water Resources Control Board (SWRCB) (which issues  
13 water rights permits) could impose requirements that would change the Water  
Project.

14 *Id.* Further, respondents concede that “[i]f construction and operation of the Water Project . . . is  
15 delayed, deliveries by the Agency to its water contractors will be limited by any then-existing  
16 constraints on the capacity of its transmission system and its existing water rights.”

17 Respondents also concede that development of the Water Project has been enjoined by the  
18 courts – in the *Friends of the Eel River* litigation referenced above – for failure to conduct an  
19 adequate CEQA review. For these and other reasons, this Water Project is therefore far from a  
20 certainty. Rather, its construction and operation may be delayed and curtailed, impairing the  
21 reliability of planned water supplies.

22 58. Respondents do not explain how they will supply sufficient water to meet projected  
23 demand if the Water Project is not completed as scheduled. But the UWMPA requires that the  
24 agency “describe plans to supplement or replace” potentially unreliable sources of water “with  
25 alternative sources” to meet the future demands. Water Code § 10631(c). The Plan violates this  
26 mandate.

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1 **7. SCWA Failed to Examine Alternative Sources of Water Needed if SCWA's**  
2 **Application to the SWRCB for an Increase in Russian River Diversions Is Denied.**

3 59. The Plan counts on an increase in Russian River diversions from 75,000 to 101,000  
4 afy, as part of the Water Project discussed above. The Plan also admits that respondents have  
5 only applied for such an increase, but do not yet possess the rights to the additional 26,000 afy of  
6 Russian River flows. Plan at 4-2. Ignoring this potential shortfall, the Plan bases all of its future  
7 water supply plans on the assumption that the application will be granted in full. As discussed  
8 above, the UWMPA demands more analysis and a critical look at future supplies along with  
9 potential alternatives to those planned supplies.

10 **8. The Comparison of Water Supply and Demand is Inadequately Analyzed.**

11 60. The most important section of the UWMP, wherein the agency should analyze its  
12 future water plans, is devoid of analysis. Section 7 consists of approximately five pages of  
13 tables with virtually no analysis of their contents. No effort is made to coordinate projected  
14 demand in the County's draft General Plan, particularly its Land Use and Water Elements, and  
15 the EIR thereon, with the Plan's different and conflicting water demand assumptions. The  
16 section comparing future supplies to future demands is the most critical component of an urban  
17 water management plan, but this Plan fails to analyze the risks and consequences of the water  
18 shortfalls identified in Section 7. Respondents must analyze the results of their comparison, so  
19 as to develop a full understanding of, and to help educate the public about, the future water  
20 supply and demand conflicts in the region. Such an analysis would, for example, reveal the  
21 troubling prospect of substantial water shortages in single dry years (as discussed above) and  
22 spur discussion of ways to resolve such a shortfall.

23 **9. The Plan's Climate Section Fails to Account for the Impacts of Global Warming.**

24 61. The Plan's description of the local climate fails to take into account the likely  
25 impacts of global warming on future average rainfall levels, average ambient temperatures,  
26 evaporation rates of storage facilities, and increased water demands due to higher temperatures.  
27 According to a preponderance of scientific material addressing the subject, including the  
28 testimony of noted Russian River hydrologist Professor Robert R. Curry, rainfall patterns will



1 change, precipitation in storm events will become erratic, droughts will become more severe,  
2 and these changes will cause an overall decrease in groundwater recharge. Further, it is  
3 expected that temperatures will rise (causing an increase in evaporation rates of all above-  
4 ground storage facilities), and water usage, especially by agricultural users, will increase  
5 dramatically with each incremental rise in overall temperature.

6 62. In not looking at these impacts, the UWMP fails to thoroughly analyze future  
7 climate conditions and fails to present an adequate plan for future potential water supply  
8 shortfalls.

9 **10. The Plan Downplays SCWA's Reliance on Water from the Eel River.**

10 63. The Plan states that respondents do not import water. Plan at 1-1. This statement is  
11 misleading. SCWA and its users rely heavily on water imported by Pacific Gas & Electric  
12 Company pursuant to a contract with respondents from the Eel River through the Potter Valley  
13 Project. The Plan's masking of its reliance on Eel River water, both for SCWA's water supply  
14 and to maintain the Russian River's instream flow, allows it to ignore the impacts of the  
15 diversions on the Eel and Russian Rivers and to avoid discussing potential curtailments of  
16 imported water from the Eel River. The UWMPA requires a complete analysis of the sources of  
17 water, a discussion of their future reliability, and analysis of alternatives if the water source in  
18 question appears potentially unavailable.

19 **11. The Plan Fails to Disclose Its Assumed Rate of Sedimentation in Calculating the  
20 Storage Capacity of Lake Sonoma, Lake Mendocino, and Lake Pillsbury.**

21 64. The Plan fails to disclose its assumed rate of sedimentation, and consequent  
22 reduction in the water storage capacity, of Lake Sonoma, Lake Mendocino, and Lake Pillsbury.  
23 Plan at 4-19. Sedimentation reduces the volume of water stored in these facilities. These  
24 growing reductions in capacity must be disclosed in the UWMP so that the public and reviewing  
25 agencies can assess whether the Plan presents an accurate and complete water supply analysis  
26 in compliance with the UWMPA.

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1 **12. The Plan Relies on Outdated 1982 DWR Studies, Ignoring More Recent Evidence**  
2 **That Shows Groundwater Overdraft Conditions Exist Throughout the Area.**

3 65. The Plan claims that there are no overdraft conditions present in any of the  
4 groundwater basins being considered as important sources of water in the Plan. Plan at 4-5 to 4-  
5 15. Contrary to this conclusion, recent monitoring data confirms that much of the Russian  
6 River basin and other areas of Sonoma County are indeed in overdraft. By failing to consider  
7 this information, respondents ignored a highly significant, potential barrier to future  
8 groundwater pumping in the area. The Plan not surprisingly, therefore, fails to discuss what  
9 measures would need to be taken to replace water supplies from groundwater sources that have  
10 been depleted. As such, the Plan fails to adequately analyze future water supplies and analyze  
11 alternatives to those water supplies so that decisionmakers have a clear picture of future water  
12 availability.

13 **13. The Plan Does Not Adequately Address the Threats Posed to Water Supplies by the**  
14 **Disposal of Treated Sewage Water into the Russian River Watershed at Locations**  
15 **Upstream of Groundwater Wells and Intakes for SCWA Drinking Water Supplies.**

16 66. The disposal of treated sewage water into the Russian River watershed upstream of  
17 agricultural and domestic wells and respondents' diversion facilities may threaten future water  
18 supplies. Treated sewage water contains many harmful contaminants that degrade water quality.  
19 This potential cause of degradation of agricultural and domestic wells and respondents' main  
20 source of water should have been taken into account and thoroughly analyzed in the Plan.

21 **14. The UWMP's Failure to Address the Adverse Consequences of the Use of Treated**  
22 **Sewage Water for Groundwater Recharge Ignores the Danger of Widespread**  
23 **Contamination of Groundwater Sources with Chemicals That Remain in Sewage**  
24 **Water Even after Treatment or That Are Created During the Treatment Process.**

25 67. The Plan claims that "[t]he use of recycled water in the Santa Rosa subbasin offsets  
26 demand for potential potable use by agricultural operations," and that this practice "will  
27 continue to meet the needs of the current agricultural customers." Plan at 4-13. This  
28 assumption overlooks the fact that the use of recycled water for agriculture, including the  
introduction of treated sewage into groundwater through groundwater recharge programs,  
threatens the Plan's water supply reliability. Such uses of treated sewage can cause widespread

1 contamination of groundwater with chemicals that remain in sewage water even after treatment  
2 or that are created during the treatment process, such as trihalomethanes (“THMs”) and N-  
3 nitrosodimethylamine (“NDMA”). The Plan fails to address this risk of harm to groundwater  
4 quality, and to analyze the potential repercussions of the widespread groundwater contamination  
5 it might cause.

6 **15. The Plan Does Not Accurately Portray the Supply Versus Demand Scenario for**  
7 **Multiple Dry Years Between 2016-2020.**

8 68. In Section 7 of the Plan, respondents claim that available supplies for the years  
9 2016-2020 will be 104,870 afy. Plan at 7-5, Table 7-15. Yet everywhere else in the Plan,  
10 supplies for those years appear to be much less. Supplies for 2015, just one year prior to 2016-  
11 2020, equal 78,870 afy. Plan at 7-1 to 7-4, Tables 7-1, 7-3, 7-4, 7-6, 7-7, 7-9, 7-10, and 7-12.  
12 The Water Project that could make up the gap by providing 26,000 afy is not predicted in the  
13 Plan to come on-line until 2020. Plan at 4-21, Table 4-9. Thus, it appears that respondents rely  
14 on additional water supplies between 2016-2020 that will not be available until the last year of  
15 that period. Importantly, if respondents had not erroneously assumed that the Water Project and  
16 its predicted supply of 26,000 afy of water supplies would be completed four years before it  
17 could be, they would have encountered severe shortfalls in their multiple dry year period  
18 forecast.

19 **16. The Plan Fails to Disclose the Impacts of Reduced Supplies During Droughts.**

20 69. The Plan fails to disclose the magnitude and impact of curtailed water deliveries  
21 during droughts. For example, the Plan glosses over this impact by stating only that this  
22 shortfall “affects the Santa Rosa subunit urban demand during such periods.” Plan at 4-19.  
23 Similarly, although the Plan admits that water releases from Lake Sonoma may be drastically  
24 curtailed, by up to 30 percent, when water volume in that storage facility falls to less than  
25 100,000 acre feet (Plan at 4-23), the Plan never discloses the impact of this 30 percent decrease  
26 in surface water supplies on its customers, or examines alternative supplies that might be  
27 developed to mitigate such impacts. This omission violates respondents’ statutory duty to  
28

1 “describe plans to supplement or replace” potentially unreliable or unavailable future sources,  
2 with “alternative sources.” Water Code § 10631(c).

3 **17. The Plan Fails to Identify Percentages of Water Use among Different Water User**  
4 **Sectors.**

5 70. The Plan fails to quantify water use among different water use sectors. The  
6 UWMPA requires agencies to identify and quantify both past and current water use, among  
7 water use sectors such as residential, multifamily, commercial, industrial, governmental,  
8 landscape, and agricultural. Water Code § 10631, subd. (e)(1). Contrary to this express  
9 requirement, the Plan fails to do so.

10 **18. The Plan Fails to Explain How, When, and to What Extent its Water Conservation**  
11 **Program Will Reduce Water Demand.**

12 71. Respondents rely on substantial reductions in water use based on future  
13 implementation of water conservation and best management measures, but fail to specifically  
14 explain how, when, and to what extent the water conservation program will reduce demand.  
15 Plan at 6-2 to 6-4 and 3-5, Table 3.3. Without more information, the public has no way of  
16 evaluating respondents’ estimated reduction in demand. As such, the Plan’s future water  
17 demand section does not comply with the UWMPA.

18 **19. SCWA’s Delay in Releasing its 2005 UWMP Has Deprived the Public of a Fair**  
19 **Opportunity to Review and Comment on the Plan.**

20 72. The Act requires that agencies “shall encourage the active involvement of diverse  
21 social, cultural, and economic elements of the population within the service area prior to and  
22 during the preparation of the plan.” Water Code § 10642. Contrary to this requirement,  
23 respondents delayed the release of the 2005 UWMP for nearly a year and then asked the public  
24 to comment on the Draft Plan within just four weeks. No preliminary reports were issued. No  
25 general public involvement was solicited. Rather, the Plan was developed by respondents and  
26 their consultants without the “active involvement” of the population within the service area.  
27 Respondents’ truncated public process – four weeks for review and comment – is completely  
28 disproportionate to the long-term impact of the Plan, and subverts the intent of the UWMPA.



1 The Public Trust Doctrine and related provisions of the California Constitution, including  
2 Article I, section 25 and Article X, sections 2 and 4, California Water Code sections 1243,  
3 1243.5, 1257, 1257.5, and 1258, and Fish and Game Code sections 1600 *et seq.*, 2080 *et seq.*  
4 and 5937, impose on respondents duties (1) not to harm or impair petitioners' exercise of their  
5 constitutional and statutory rights to use and enjoy the Russian River, a navigable waterway  
6 utilized for recreational boating, and to enjoy its associated fish, wildlife, scenic and recreational  
7 resources, and (2) not to overcommit the surface and groundwater resources of the Russian  
8 River watershed in an unreasonable, harmful manner.

9 78. Contrary to the foregoing duty, respondents approved the UWMP without adequate  
10 environmental and hydrologic review and despite the violations of the UWMPA alleged  
11 hereinabove. Respondents' approval of the UWMP violates the Public Trust Doctrine and its  
12 constitutional and statutory underpinnings, because (1) respondents failed to conduct adequate  
13 environmental and hydrologic reviews to assure protection of public trust resources as required  
14 under the Public Trust Doctrine before adopting the UWMP, (2) the UWMP violates the  
15 UWMPA in the respects alleged hereinabove, and (3) the UWMP poses an unreasonable risk  
16 that the surface and groundwater resources of the Russian River and its watershed, and  
17 associated fish, wildlife, agricultural and recreational resources dependent thereon, will be  
18 unreasonably impaired and harmed in the respects alleged hereinabove. In particular, because of  
19 its deficiencies alleged hereinabove, the UWMP overstates available surface and groundwater  
20 resources of the Russian River and its watershed and other water resources of the County, and  
21 understates the adverse effects of foreseeable urban growth on these water resources. The  
22 UWMP thus encourages and allows respondents and other local governments that will rely on  
23 the UWMP to approve unsustainable urban growth that will exhaust and outstrip these surface  
24 and groundwater resources, causing lower flows in the Russian River and its tributaries, and  
25 harming their hydrologic and ecological health, natural scenery, vegetation, fish and wildlife,  
26 and related public trust resources and uses.

27 79. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of  
28 law in that, unless this Court issues its writ of mandate or injunctive relief vacating respondents'

1 approval of the UWMP and requiring respondents to conduct an adequate environmental and  
2 hydrologic review to assure protection of public trust resources as required under the Public  
3 Trust Doctrine, and to conform the UWMP therewith, respondents' approval thereof would be  
4 contrary to such doctrine. No monetary damages or other legal remedy could adequately  
5 compensate petitioners for the resulting harm to the environment and to their quality of life and  
6 to that of the public occasioned by respondents' unlawful conduct.

7 80. An actual controversy exists between petitioners and respondents in that petitioners  
8 contend that respondents have acted in violation of the Public Trust Doctrine as alleged  
9 hereinabove, but respondents dispute this contention. A judicial resolution of this controversy is  
10 therefore necessary and appropriate.

11 81. Respondents are threatening to proceed with implementation of the UWMP without  
12 awaiting this Court's review of their compliance with the foregoing laws. Implementation of the  
13 UWMP will irreparably harm petitioners and the public in the respects alleged above.  
14 Accordingly, a temporary restraining order and preliminary and permanent injunctions should  
15 issue, restraining respondents from implementing the UWMP without compliance with the  
16 Public Trust Doctrine and related laws.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, petitioners pray for relief as follows:

19 1. On the First Cause of Action, petitioners seek this Court's peremptory writ of  
20 mandate, declaratory judgment, and preliminary and permanent injunctions setting aside and  
21 enjoining respondents' approval and implementation of the UWMP on the grounds that it  
22 violates the UWMPA, and directing respondents to adopt a legally adequate UWMP;

23 2. On the Second Cause of Action, petitioners seek this Court's peremptory writ of  
24 mandate, declaratory judgment, and preliminary and permanent injunctions setting aside and  
25 restraining respondents' approval and implementation of the UWMP on the grounds that it  
26 violates the Public Trust Doctrine and related laws, and directing respondents to adopt a legally  
27 adequate UWMP;

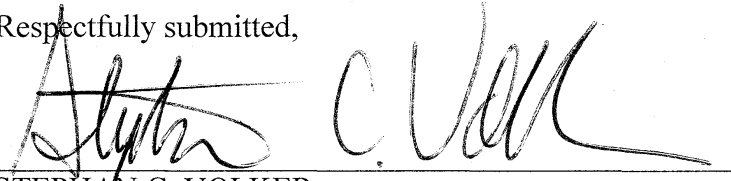
28 3. For reasonable attorney's fees;

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- 4. For costs of suit herein; and
- 5. For such other and further relief as the Court deems just and proper.

Dated: March 19, 2007

Respectfully submitted,



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STEPHAN C. VOLKER  
Attorney for Petitioners/Plaintiffs  
Sonoma County Water Coalition, et al.



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**VERIFICATION**

I, Stephan C. Volker, am counsel to petitioners/plaintiffs and have personal knowledge of the following facts. The offices and governing boards of the petitioners/plaintiffs are located outside the county in which I maintain my office, Alameda County. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief. The facts alleged in the above petition are true to the best of my knowledge and belief, and on that ground petitioners/plaintiffs allege that the matters stated herein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Verification was executed in Oakland, California on March 19, 2007.

  
STEPHAN C. VOLKER

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**PROOF OF SERVICE**

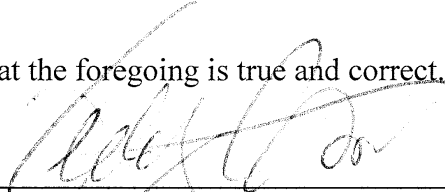
I am a resident of the United States and of the State of California. I am employed in the County of Alameda. My business address is 436 - 14<sup>th</sup> Street, Suite 1300, Oakland, California 94612. My business telephone number is (510) 496-0600, and fax number is (510) 496-1366. I am over the age of eighteen years. I am not a party to the within action or proceeding. On March 19, 2007, I served the following document:

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

by enclosing it in a sealed envelope with First Class postage prepaid and depositing it with the United States Postal Service, addressed as follows:

Office of the Attorney General  
State of California  
1300 "I" Street  
P.O. Box 944255  
Sacramento, CA 94244-2550

I declare under penalty of perjury that the foregoing is true and correct. Executed March 19, 2007, at Oakland, California.

  
\_\_\_\_\_  
Teddy Ann Fuss