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13  
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15  
16 **FOR THE COUNTY OF VENTURA**

17 LOS PADRES FORESTWATCH; CENTER )  
18 FOR BIOLOGICAL DIVERSITY; )  
19 CITIZENS FOR RESPONSIBLE OIL & GAS )

20 Petitioners, )

21 v. )

22 COUNTY OF VENTURA )

23 Respondent. )

24 CALIFORNIA RESOURCES )  
25 CORPORATION; )  
26 VINTAGE PRODUCTION CALIFORNIA, )  
27 LLC ; SENECA RESOURCES )  
28 CORPORATION; and DOES 1 to 10, )

Real Parties in Interest. )

CASE NO.:

**PETITION FOR WRIT OF MANDATE**

(Violation of California Environmental  
Quality Act and County Code)

## **INTRODUCTION**

1. Petitioners Los Padres ForestWatch, Center for Biological Diversity and Citizens for Responsible Oil and Gas challenge the County of Ventura's approval of 19 new oil wells along the Santa Paula Canyon Trail, a popular hiking trail that serves as a gateway to the Los Padres National Forest. The wells would be located next to critical habitat for the endangered Southern Steelhead and within area frequented by the endangered California condor.

2. Despite objections from nearly 1,000 hikers and local residents and overwhelming expert scientific testimony, the County of Ventura ("County") approved the new oil wells and the continued operation of existing oil wells with continuing violations of permit conditions, relying in large part on an outdated environmental impact report prepared in 1978.

3. Instead of preparing a subsequent environmental impact report to analyze the many impacts associated with oil drilling in this environmentally sensitive area, the County instead relies on a nine-page addendum.

4. While this oil drilling project would double the number of oil wells in Santa Paula Canyon, the County's addendum failed to evaluate and mitigate significant noise, visual and public safety impacts that oil drilling would cause to hikers on the adjacent trail.

5. The addendum also failed to analyze the risks posed by oil spills from a pipeline directly above steelhead habitat in Santa Paula Creek or contaminants draining from the drill site into the Creek. This failure is exacerbated by the fact that the County has failed to enforce its own setback requirements for this important creek.

6. The addendum further fails to assess noise, lighting and other hazards to California condors that are nesting in Santa Paula Canyon for the first time in more than a half-century.

7. These wholesale violations of the California Environmental Quality Act ("CEQA") and the County's Non-Coastal Zoning Ordinance have necessitated the filing of this action to obtain a writ of mandate and other appropriate relief rescinding the certification of the addendum and setting aside approval of the modified conditional use permit that would allow

1 continued drilling in violation of permit conditions and would allow a more than doubling in the  
2 number of oil wells. The violations of CEQA and the Zoning Ordinance by the County in  
3 connection with the project render its approvals invalid. Accordingly, Petitioners request that  
4 this Court issue peremptory and alternative writs of mandate to prevent the County or Real  
5 Parties in Interest from taking any further actions based on the faulty approvals until a  
6 subsequent environmental impact report has been prepared.

### 7 **JURISDICTION**

8 8. This Court has jurisdiction over the writ action under section 1085 and 1094.5 of  
9 the Code of Civil Procedure (“CCP”), and sections 21168 and 21168.5 of the Public Resources  
10 Code.

### 11 **PARTIES**

12 9. Petitioner LOS PADRES FORESTWATCH (“ForestWatch”) is a nonprofit  
13 organization that works to protect the Los Padres National Forest and other public lands along  
14 California’s Central Coast. Our members and supporters – which number more than 1,000 in  
15 Ventura County and more than 4,000 throughout the Central Coast – are concerned about the  
16 environmental impacts of oil drilling on wildlife habitat, water quality, scenic views, and  
17 outdoor recreation in and around the Los Padres National Forest. Our goal is to ensure that any  
18 existing and proposed oil drilling operations near the Los Padres National Forest are conducted  
19 responsibly and in a way that reduces or avoids environmental impacts to the fullest extent  
20 possible.

21 10. Petitioner CENTER FOR BIOLOGICAL DIVERSITY (“the Center”) is a non-  
22 profit conservation organization dedicated to the protection of native species and their habitats  
23 through science, policy, and environmental law. The Center has more than 900,000 members  
24 and on-line advocates throughout California and the United States, including many members  
25 who reside in Ventura County. The Center has worked for many years to protect imperiled  
26 plants and wildlife, open space, air and water quality, and overall quality of life for people  
27 along the Central Coast. The Center has actively participated in many oil and gas issues in and  
28

1 around the Los Padres National Forest.

2 11. Petitioner CITIZENS FOR RESPONSIBLE OIL & GAS (“CFROG”) is a non-  
3 profit oil and gas industry watchdog organization. Comprised of more than 500 volunteers, our  
4 goal is to analyze oil and gas applications and make sure government agencies follow the law  
5 and do the appropriate scientific evaluations before drilling or other projects commence and  
6 make sure existing operations do not violate the terms of their permits. Our advisory board of  
7 scientists, engineers, lawyers, educators, journalists, contractors and other professionals brings  
8 a more modern approach to the traditional Ventura County permitting process that must now  
9 include greater awareness of the risks of extreme extraction techniques and the impact of oil  
10 and gas on climate change.

11 12. Respondent COUNTY OF VENTURA (“County”) is a political subdivision of the  
12 State of California.

13 13. Real Party in Interest CALIFORNIA RESOURCES CORPORATION (“CRC”) is  
14 the Project applicant and recipient of the Project approval at issue in this matter.

15 14. Real Party in Interest VINTAGE PRODUCTION CALIFORNIA, LLC  
16 (“Vintage”) was the original applicant for the Project. CRC subsequently took over as the  
17 identified Project applicant. According to the California Secretary of State’s records, the  
18 current business entity status of Vintage is canceled.

19 15. Real Party in Interest SENECA RESOURCES CORPORATION is the land  
20 owner of the Project site. Seneca leases the site to CRC for the operation of oil wells.

21 16. Real Parties in Interest named as Does 1 to 10 are given fictitious names because  
22 their names and capacities are presently unknown to Petitioners.

### 23 **STATEMENT OF FACTS**

#### 24 **The Project Area**

25 17. The Project site is located in a mountainous region between the cities of Ojai and  
26 Santa Paula, adjacent to the Los Padres National Forest, in an area referred to as Santa Paula  
27 Canyon.  
28

1           18. Santa Paula Canyon is one of the most environmentally sensitive areas in Ventura  
2 County, providing habitat for several rare and imperiled wildlife including endangered  
3 Southern Steelhead and endangered California condors.

4           19. Santa Paula Creek runs through Santa Paula Canyon. The Southern Steelhead,  
5 which was listed as an endangered species in 1998, occurs in Santa Paula Creek. Santa Paula  
6 Creek was listed as critical habitat for the Southern Steelhead in 2005. The California  
7 Department of Fish and Wildlife annual biological surveys found substantial numbers of  
8 Southern Steelhead in Santa Paula Creek very near the Project site as recently as 2015. One of  
9 the drill sites for the Project is located within 100 feet of this important creek. Santa Paula  
10 Creek is also designated a red line channel, that was established to protect important watershed  
11 resources and for flood control purposes. All of the drill sites are within 300 feet of Santa  
12 Paula Creek, within the area where setback standards are required.

13           20. A pair of condors has established a nest less than two miles from the Project site.  
14 This condor nest is extremely significant because this is the first nest in the history of the  
15 California Condor Reintroduction Program where two parents hatched from eggs laid in the  
16 wild reared a chick that was also hatched in the wild, heralding a second generation of  
17 completely wild condors. There are also several active condor roosting sites used by these  
18 condors located within a half mile of the Project site, and condors have recently begun to land  
19 on existing oil pads in the canyon.

20           21. The area also serves as one of the most popular gateways to trails, backcountry  
21 camps, swimming holes, and waterfalls in the Los Padres National Forest. A formally-  
22 designated national forest trail known as the East Fork Trail or the Santa Paula Canyon Trail  
23 cuts directly through the middle of this oil and gas operation. This trail has existed since the  
24 early 1900s, long before any oil wells were drilled at this site, and the Forest Service estimates  
25 that as many as 100,000 residents and visitors use this trail every year.

26           22. The site is adjacent to and may be part of the original Chumash village of Sisa, the  
27 largest of the inland village sites and considered by archaeologists to be of the highest  
28

1 significance in understanding the entire Chumash economic sphere and social network.

2 23. The quaint Thomas Aquinas College campus is situated near the Project site. The  
3 Santa Paula Canyon Trail begins at the College and continues towards the Project site and  
4 beyond. Adding to the bucolic surroundings of this intensive oil development is an  
5 avocado ranch located adjacent to the Project site.

6 **Project History**

7 24. Oil drilling at the 813 acre Project site was first allowed in 1971 pursuant to the  
8 issuance of a conditional use permit (CUP) for one oil well.

9 25. Various oil wells, pipelines, storage tanks, access roads, and other oil production  
10 facilities have been authorized in this area since 1971 in piecemeal fashion pursuant to  
11 modifications of the original CUP, with a limited amount of environmental review.

12 26. In 1978, a modification to the CUP was granted to allow an expansion of drilling  
13 on the Project site for up to 30 wells at Drill Sites 1 through 6. The County prepared a 32-page  
14 environmental impact report ("EIR") to analyze the impacts associated with expanded  
15 operations.

16 27. The 1978 EIR required a statement of overriding considerations because it found  
17 the Project would have several significant and unavoidable impacts including: adverse visual  
18 impacts, air emissions from drilling, and safety hazards due to the potential for oil spills. The  
19 1978 EIR also required mitigation measures to reduce these and other impacts, several of which  
20 have never been implemented.

21 28. The main pipeline servicing this facility is suspended mid-air across Santa Paula  
22 Creek for approximately 200 feet without any support structures. If this pipeline were to rupture  
23 from corrosion, or suffer damage from high floodwaters, falling trees, or seismic activity, the  
24 ensuing oil spill would be catastrophic, significantly harming aquatic wildlife and polluting  
25 water quality for downstream users. Recognizing this risk, the 1978 EIR requires the applicant  
26 to install automatic safety valves to limit the size of an oil spill in the event of pipeline breakage  
27 and to construct a suspension bridge for the pipeline to reduce the likelihood of pipeline  
28

breakage from flooding. Automatic safety valves have yet to be installed on the pipeline 37 years later. The suspension bridge required by the 1978 EIR mitigation measure was also never constructed.

29. The 1978 EIR also required landscaping to screen views of the oil well operations from hikers. This landscaping was never established.

30. The Thomas Aquinas College found the number of trucks accessing the Project site to be incompatible with operations at the campus. A re-routing of the access road was proposed to address this issue. In 1985, the County prepared a Focused EIR limited to evaluating the impacts of re-routing access roads to the drill sites to avoid the campus.

31. In addition to these two EIRs, the County prepared a 7-page Mitigated Negative Declaration (“MND”) in 1982 to evaluate the installation of Drill Site 7 and the drilling of several wells at that site. The impacts of well pad construction and oil drilling at this site were not evaluated in the 1978 EIR, or in the 1985 Focused EIR.

32. The 1982 MND acknowledged the potential impact to hikers on Santa Paula Canyon Trail. As mitigation for this public safety impact, the MND required the rerouting of Santa Paula Creek Trail by the Project operator so that it would completely avoid Drill Sites 1 and 7. This rerouting of the trail was required to be completed by November 1, 1982. However, 33 years later the trail has yet to be rerouted.

33. In addition to the Project operator’s failure to implement and the County’s failure to enforce required mitigation measures, the operation has a long history of significant permit violations, which have placed the sensitive natural and recreational resources at the site at great risk.

34. Despite the numerous violations at the Project site, additional CUP modifications were granted throughout the 1980s and 1990s to extend the drilling period for the oil wells, which would have otherwise expired in 2011.

35. Existing wells at this facility have been fracked repeatedly in the past. According to records maintained by the California Division of Oil, Gas & Geothermal Resources, 16 of the 17

1 wells drilled on these pads have been fracked at least once, and some as many as five times, for  
2 a grand total of 42 fracking and other well stimulation operations since the first well was drilled  
3 at the Project site in 1972.

#### 4 **The Project**

5 36. The Project includes a CUP modification to allow the continued use of 17 existing  
6 wells and the drilling 19 new wells.

7 37. The modified CUP allowed the existing 17 oil and gas wells located on four  
8 existing drill pads (Drill Sites 1, 2, 3 and 7) to continue operations, and allowed drilling,  
9 testing, reworking, maintenance and placement into production of 19 new oil and gas wells on  
10 existing Drill Sites 1, 2, 3 and 7.

11 38. The approved operations include the separation of natural gas and produced water  
12 from crude oil and processing activities for on-site wastewater injection well operations.  
13 Operation of existing equipment associated with the storage, processing and transportation of  
14 oil, gas and wastewater is also allowed under the modified CUP.

15 39. The majority of the 19 new wells will be located on Drill Sites 1 and 7. These are  
16 the two drill sites located adjacent to the Santa Paula Canyon Trail. All of Drill Site 7 is located  
17 within 200 feet of Santa Paula Creek, with more than half of the site within 100 feet of the Creek  
18 and a portion of the site located less than 50 feet from the Creek.

19 40. Collectively, these activities are referred to as the Project.

#### 20 **Approval of the Project**

21 41. On October 10, 2013, Real Party Vintage applied for a modified CUP for the  
22 Project.

23 42. A week after the application was submitted, the County Planning Division  
24 determined that an addendum to the original EIR would be prepared as the environmental  
25 review document. There was no initial study prepared to determine whether there could be any  
26 potentially significant impacts associated with the proposed Project.

27 43. The Planning Director issued a notice providing details of the project and formally  
28



1 soliciting public comments on the Project on December 22, 2014 and closed the public comment  
2 period on January 8, 2015.

3 44. In a letter to the County dated February 11, 2015, ForestWatch outlined in detail a  
4 series of ongoing violations at this facility and requested that the County investigate and abate  
5 them prior to approving the new Project.

6 45. On February 17, 2015, the Planning Director approved the Project without  
7 preparing an EIR, instead relying on a nine-page addendum, purported to be an addendum to the  
8 1978 and 1985 EIRs.

9 46. ForestWatch and CFROG appealed the Planning Director's failure to prepare a  
10 Subsequent or Supplemental EIR and the Project's non-compliance with the County Code to the  
11 Planning Commission.

12 47. On February 27, 2015, the Planning Division responded to ForestWatch's letter  
13 requesting ongoing violations be addressed. The response stated: "Given that Los Padres Forest  
14 Watch has appealed the February 17, 2015 decision of the Planning Director on the PL 13-0150  
15 application, your letter and a staff response to the issues raised therein will be included in the  
16 staff report provided to the Planning Commission at the de novo hearing on the proposed  
17 project."

18 48. In a memo dated May 26, 2015, the Planning Division discussed the violations set  
19 forth in ForestWatch's letter, acknowledging that the applicant is in non-compliance with  
20 several permit conditions, but postponing any resolution of the violations until after the hearing  
21 on the appeal of the new Project.

22 49. On June 11, 2015, the Planning Commission denied the ForestWatch and CFROG  
23 appeals and approved the Project without any changes.

24 50. ForestWatch and the Center filed an appeal of the Planning Commission decision  
25 to the Board of Supervisors on June 22, 2015. CFROG filed an appeal of the Planning  
26 Commission decision on or about June 22, 2015.

27 51. On October 20, 2015, the County Board of Supervisors held a hearing to consider  
28

1 the appeals of the Planning Commission's approval of the Project submitted by ForestWatch,  
2 the Center and CFROG.

3 52. A substantial amount of testimony was provided at this hearing regarding the  
4 potential impacts associated with the Project. In addition to testimony by each of the  
5 Petitioners, substantive comments were made and scientific reports and surveys were submitted  
6 by biological, geo-hydrological, archeological, oil and gas and other experts, as well as many  
7 members of the community concerned about impacts to a favorite hiking trail and the many  
8 sensitive resources located in Santa Paula Canyon.

9 53. In a split three to two vote, the Board of Supervisors approved the Project and  
10 denied Petitioners' appeals at the October 20, 2015 hearing.

11 54. On October 23, 2015, the County filed a notice of determination.

12 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

13 **AND INADEQUATE REMEDIES AT LAW**

14 55. Petitioners objected to the Project throughout the administrative process, and fully  
15 exhausted its administrative remedies. Petitioners appeared at public hearings and submitted  
16 letters raising the issues set forth in this Petition, and filed administrative appeals of the  
17 approval.

18 56. Petitioners have no plain, speedy or adequate remedy in the course of ordinary law  
19 unless this Court grants the requested writs of mandate.

20 57. Petitioners have complied with Public Resources Code section 21167.7 by sending  
21 a copy of this petition to the California Attorney General. (**Exhibit A**).

22 58. Petitioners have complied with Public Resources Code section 21167.5 by  
23 providing the County with notice of intention to commence the action. (**Exhibit B**).

24 59. Petitioners elect to prepare the administrative record. (**Exhibit C**).

25 **FIRST CAUSE OF ACTION**

26 **(VIOLATION OF CEQA)**

27 60. Petitioners incorporate all previous paragraphs as if fully set forth.  
28

1           61. The County's violations of CEQA's requirements include, but are not limited to,  
2 the following:

3 **Improper Reliance on Addendum**

4           62. Under CEQA, the County can prepare an EIR Addendum only in a very narrow set  
5 of circumstances. If any of the following conditions apply, then a Subsequent or Supplemental  
6 EIR must be prepared if:

7  
8           (1) Substantial changes are proposed in the project which will require major revisions of  
9 the EIR or Negative Declaration due to the involvement of new significant environmental  
10 effects or a substantial increase in severity of previously identified significant effects;

11           (2) Substantial changes occur with respect to the circumstances under which the project  
12 is being undertaken which will require major revisions of the EIR or Negative  
13 Declaration due to involvement of new significant environmental effects or a substantial  
14 increase in severity of previously identified significant effects; or

15           (3) New information of substantial importance which was not known and could not have  
16 been known with the exercise of reasonable diligence at the time the previous EIR was  
17 certified or the Negative Declaration was adopted, shows the following:

18                   (A) The project will have one or more significant effects not discussed in the  
19 previous EIR or Negative Declaration.

20                   (B) Significant effects previously examined will be substantially more severe than  
21 previously shown in the previous EIR.

22                   (C) Mitigation measures or alternatives previously found not to be feasible would  
23 in fact be feasible, and would substantially reduce one or more significant effects of the  
24 project, but the project proponent declines to adopt the mitigation measure or alternative;  
25 or

26                   (D) Mitigation measures or alternatives which are considerably different from  
27 those analyzed in the previous EIR would substantially reduce one or more significant  
28 effects on the environment, but the project proponent declines to adopt the mitigation  
measure or alternative.

(CEQA Guidelines §§ 15162, 15164(a).)

63. The County cannot rely on an addendum for the Project because several of these  
conditions apply to the Project. The previous EIRs did not evaluate several potentially

1 significant impacts that exist today. Several impacts acknowledged in the previous  
2 environmental documents have substantially increased in severity, due in part to the Project  
3 applicant's failure to undertake previously-approved mitigation measures, and new information  
4 has since become available regarding the Project's impacts. The Addendum also fails to  
5 consider reasonably foreseeable impacts associated with the Project.

6 64. Prior to choosing to prepare only an addendum, the County did not prepare an  
7 initial study prior to determining that an addendum to the 1978 EIR and/or 1985 Focused EIR  
8 was the appropriate level of environmental review for the Project the County. This violates  
9 CEQA's specific requirement that "the lead agency shall conduct an initial study to determine if  
10 the project may have a significant effect on the environment" unless the lead agency requires an  
11 EIR for the project. (CEQA Guidelines § 15063(a).) This is also a violation of the County's  
12 Initial Study Assessment Guidelines, which reiterates the Guidelines requirement that "An  
13 Initial Study shall be completed for each discretionary project."

14 **a. Impacts to Outdoor Recreation & Trails**

15 65. The Santa Paula Canyon Trail passes immediately adjacent to Drill Site 1 and Drill  
16 Site 7. Several trail guides for the area find this Trail to be the most beautiful and most popular  
17 trail for the Ojai area. However, the guides, and the many members of the public that use this  
18 Trail, point out the significant visual, noise, and odor impacts that result from the oil and gas  
19 operations located next to this existing Trail.

20 66. Allowing continued operations at the Project site and adding more wells to the drill  
21 sites located adjacent to the Trail will substantially increase the impacts to outdoor recreation.

22 67. Previous environmental review acknowledged the potential for the significant  
23 impacts and required mitigation. This included landscaping to screen Drill Site 1 required by  
24 the 1978 EIR and the rerouting of the Trail required by the 1982 MND. These mitigation  
25 measures have yet to be implemented and thus the impacts should be considered significant.

26 68. During the administrative review process for the Project, Real Party CRC installed  
27 green screen along the chain link fence that surrounds Drill Sites 1 and 7. This newly-installed  
28

1 screening creates new impacts that were not analyzed in previous environmental review  
2 documents. It creates a tunnel effect for hikers walking along the trail at Drill Site 7.  
3 Additionally, ForestWatch submitted photographs demonstrating the screening had already  
4 become a magnet for graffiti.

5 69. Part of the Trail is also used by trucks accessing the Drill Sites. During the drilling  
6 operations for the new wells, up to 30 truck trips per day for 30 to 90 days could be required.  
7 The access road overlaps with the Trail for approximately ¼ mile, creating a safety hazard. The  
8 safety impacts to hikers that are using the Trail at the same time as these large trucks has not  
9 been evaluated and could be significant. It was due in part to these safety concerns that the 1982  
10 MND required the rerouting of the Trail, which has never been done.

11 **b. Oil Spill Hazards**

12 70. A 200 foot long portion of the main pipeline carrying oil from the Project site is  
13 suspended above Santa Paula Creek without any support structures in place.

14 71. The potential impacts associated with an oil spill from this pipeline were previously  
15 acknowledged in the 1978 EIR, which required mitigation to reduce the impacts.

16 72. The required mitigation included installing a suspension bridge under the pipeline  
17 and installing automatic shutoff valves. Neither of these measures has been implemented, in  
18 violation of CEQA.

19 73. The risk from oil spills and the need for shut off valves on existing pipelines and  
20 new pipelines was not adequately evaluated. Shortly before final approval of the Project, the  
21 project description for the Project was changed to include an automatic shutoff system on the  
22 existing pipeline—a required mitigation measure that had been included in the 1978 EIR but  
23 never implemented.

24 74. This is inadequate, first because changing the project description after the decision  
25 has been made and the public process is closed undermines public participation. Second, the  
26 mitigation measures should not be included in the project description. Mitigation measures  
27 must be fully enforceable through permit conditions and including them in the project  
28

1 description instead is inadequate. (*Lotus v. Department of Transportation* (2014) 223  
2 Cal.App.4th 645, 657.) Third, the Project operator has yet to install the automatic shutoffs  
3 despite it being included as a mitigation measure in the 1978 EIR. The past actions and  
4 violations should have been taken into consideration when evaluating whether this measure  
5 would be implemented in the future. (*Laurel Heights Improvement Assn. v. Regents of*  
6 *University of California* (1988) 47 Cal.3d 376, 420.

7 75. The County also eliminated the requirement for a suspension bridge for the pipeline  
8 as part of the approval for the Project. The elimination of a mitigation measure required in an  
9 earlier EIR must be analyzed in a Supplemental EIR.

10 76. The existing operations on the Project site include three above-ground flow lines  
11 along the Trail transporting oil from Drill Site 7 to the tank farm at Drill Site 1. Any breaks in  
12 these flow lines would allow oil to drain directly into Santa Paula Creek. The County did not  
13 assess this risk from existing pipelines which are operating in violation of permit conditions.

14 77. The Project will require additional flow lines since it will allow a more than  
15 doubling of the number of oil wells in operation at Drill Site 7. This will result in an increased  
16 risk in the frequency and volume of oil spills that has not been analyzed in any environmental  
17 review document.

18 **c. Hydrological and Water Quality Impacts**

19 78. Substantial new information has been discovered regarding the impacts of Drill Site  
20 7 on the Santa Paula Creek since previous environmental review was completed. Geologic and  
21 hydrologic experts have submitted a report finding that the existing Drill Site 7 is actually  
22 located within the Santa Paula Creek channel.

23 79. Santa Paula Creek is designated as a red line stream on the Ventura County  
24 Watershed Protection District maps and is a red line channel as established by the Ventura  
25 County Flood Control District, under the jurisdiction of the Ventura County Watershed  
26 Protection District. The County's Non-Coastal Zoning Ordinance requires oil wells and  
27 production facilities to be setback from red line channels by at least 300 feet. (County Code §  
28

1 8107-5.6.1.) The entire Drill Site 7 is located within 300 feet of Santa Paula Creek. These  
2 setback standards were established to protect important watershed resources and for flood  
3 control purposes.

4 80. Santa Paula Creek is also designated as a blue line stream by the US Geological  
5 Survey. The County's Non-Coastal Zoning Ordinance requires oil wells and production  
6 facilities to be setback from blue line streams by at least 100 feet. (County Code § 8107-5.6.1.)  
7 More than half of Drill Site 7 is within 100 feet of Santa Paula Creek.

8 81. Failure to comply with these setback standards demonstrates a potentially  
9 significant water quality impact that must be analyzed in a Supplemental EIR.

10 82. The expert report also found that contaminated runoff from Drill Site 7 is conveyed  
11 directly into Santa Paula Creek. This is a significant existing impact that was never analyzed  
12 and which will substantially increase in severity if new wells are drilled on this site.

13 **d. Impacts to Southern Steelhead**

14 83. Impacts to the Southern Steelhead were not analyzed in previous environmental  
15 review documents for the site because Steelhead were not listed as an endangered species until  
16 1998 and Santa Paula Creek was subsequently indentified as critical habitat for the species in  
17 2005. Since then, the California Department of Fish and Wildlife found substantial numbers of  
18 Southern Steelhead in Santa Paula Creek very near the Project site.

19 84. This new information, and whether the Project's potential water quality impacts  
20 could adversely impact the Southern Steelhead, must be analyzed in a Supplemental EIR.

21 **e. Impacts to California Condors**

22 85. The Project site is located within two miles of an active condor nest and within a  
23 half mile of frequent roosting sites for the imperiled California condor.

24 86. The 1978 EIR found that any activity beyond Drill Sites 1 through 6 could result in  
25 an adverse impact to the California condor. Drill Site 7 was installed even closer to the nest and  
26 roost sites. Impacts to condors were not analyzed in the 1982 MND or the 1985 Focused EIR,  
27 likely because condors were completely removed from the wild in the 1980s.

1           87. Circumstances have significantly changed since the previous environmental  
2 reviews were completed. California condors have been reintroduced into the wild and are now  
3 using the area surrounding the Project site more frequently than they were in 1978. The  
4 potential impacts to condors associated with oil drilling, including noise, air quality and other  
5 hazards, as well as the impacts associated with increased operation of oil and gas facilities at the  
6 Project site must be evaluated in a Supplemental EIR.

7           **f. Air Quality Impacts**

8           88. The 1978 EIR found significant air quality impacts due to nitrogen oxide emissions  
9 would result from drilling oil wells at the Project site. This Project would drill 19 new oil wells,  
10 resulting in additional nitrogen oxide emission impacts. A Supplemental EIR is required to  
11 analyze this acknowledged significant impact and to evaluate whether these impacts remain  
12 unavoidable or could be mitigated due to technological advances in the last 37 years.

13           **g. Piecemeal Review of the Project**

14           89. CEQA requires that environmental review documents analyze “the whole of an  
15 action.” (CEQA Guidelines § 15378; see e.g., *Bozung v. Ventura County LAFCO* (1975) 13  
16 Cal.3d 263 [a project must not be segmented by being split into separate pieces, thereby  
17 avoiding comprehensive CEQA analysis of the entire project].

18           90. Existing wells at this facility have been fracked repeatedly in the past. All but one  
19 of the existing wells have been fracked at least once, with some being fracked as many as five  
20 times. Thus, it is reasonably foreseeable that fracking will occur at the 19 new oil wells and that  
21 it will continue at the existing 17 wells.

22           91. The environmental impacts associated with fracking have not been analyzed in any  
23 of the previous environmental review documents. A Supplemental EIR must be prepared to  
24 analyze these impacts.

25           **The Project Approval Includes Improperly Deferred Mitigation**

26           92. Several of the proposed conditions of approval for the Project improperly defer  
27 analysis of potentially significant impacts and constitute improperly deferred mitigation  
28



1 measures. The conditions defer development of a dust control plan until after Project approval,  
2 defer analysis of lighting impacts and development of a lighting plan until after Project  
3 approval, defer preparation of surveys for migratory birds and sensitive species until after  
4 Project approval, and defer development of a landscaping plan until after Project approval.

5 93. This deferral of analysis and development of mitigation measures violates CEQA.  
6 (*Endangered Habitats League v County of Orange* (2005) 131 Cal. App. 4th 777, 793-94;  
7 Guidelines Section 15126.4(a)(1)(B).) CEQA requires all mitigation measures for a project to be  
8 formulated during the environmental review process so their efficacy can be analyzed in the  
9 environmental review document. (*San Joaquin Raptor Rescue Center v. County of Merced*  
10 (2007) 149 Cal.App.4th 645, 669-670.)

11 **SECOND CAUSE OF ACTION**  
12 **(VIOLATIONS OF COUNTY CODE)**

13 94. Petitioner incorporates all previous paragraphs as if fully set forth.

14 95. The County's Non-Coastal Zoning Ordinance requires oil wells and production  
15 facilities to be setback from red line streams by at least 300 feet. (County Code § 8107-5.6.1.)

16 96. Santa Paula Creek is a red line stream. The Project would allow oil wells and  
17 production facilities to be located within 300 feet of this red line stream, without any evidentiary  
18 support for a claim that locating them closer would not pose an undue water pollution risk.

19 97. The County's Non-Coastal Zoning Ordinance requires oil wells and production  
20 facilities to be setback from blue line streams by at least 100 feet. (County Code § 8107-5.6.1.)

21 98. Santa Paula Creek is a blue line stream. The Project would allow oil wells and  
22 production facilities to be located within 100 feet of this blue line stream, without any  
23 evidentiary support for a claim that locating them closer would not pose an undue water  
24 pollution risk.

25 99. The County approval of the Project is in violation of these County Code setback  
26 requirements.

27 100. The County's Non-Coastal Zoning Ordinance also requires that an application for a  
28

1 permit or permit modification be nullified if violations exist on the subject parcel.

2  
3 Nullification of Applications When Violations Are Discovered - Where a violation is  
4 discovered on a lot where an application request has been accepted or is being processed  
5 after being deemed complete, said application shall become null and void and returned to  
6 the applicant.

7 (County Code § Section 8111-2.2(g).) This nullification requirement is mandatory and without  
8 discretion.

9 101. There are extensive and continuing violations of permit conditions and mitigation  
10 measures at the existing Project facility. Thus, it was a violation of the County Code for the  
11 County to deem the application for the Project to be complete. The application should have  
12 become null and void until such time the facility is brought into compliance.

13 102. Instead, the County chose to defer resolution of ForestWatch's complaint regarding  
14 ongoing violations and consider them at the same time as Project approval. This is in violation  
15 of the County Code's required process. Moreover, the County did not require compliance with  
16 all of the existing conditions and mitigation measures for the operation of the existing 17 wells  
17 and facilities as part of the Project approval process. The County instead eliminated several  
18 conditions that had not been complied with and weakened the mitigation requirements for both  
19 the new and existing wells.

20 **WHEREFORE, Petitioners Pray:**

- 21 1. For an alternative and peremptory writ of mandate, commanding the County:
- 22 A. To set aside and vacate its adoption of the Addendum for the Project;
- 23 B. To set aside and vacate any approvals for the Project based upon the Addendum,  
24 including, but not limited to, the modified conditional use permit; and
- 25 C. To prepare and certify a legally adequate Subsequent or Supplemental EIR for the  
26 Project so that the County will have a complete disclosure document before it, identifying for  
27 the decision-makers and public the potential significant impacts of the Project, and enable it to  
28 formulate realistic and feasible alternatives and mitigation measures to avoid those impacts;

1           2.     For an order enjoining the County and Real Parties in Interest from taking any  
2 action in furtherance of the Project unless and until a lawful approval is obtained from the  
3 County after the preparation and consideration of an adequate Subsequent or Supplemental EIR  
4 and until Real Parties in Interest are found to be in compliance with the previous permit  
5 conditions and mitigation measures;

6           3.     For costs of the suit;

7           4.     For reasonable attorneys' fees; and

8           5.     For such other and further relief as the Court deems just and proper.  
9

10 Dated: November 17, 2015

Respectfully Submitted,

11 CHATTEN-BROWN & CARSTENS LLP  
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14 By: \_\_\_\_\_  \_\_\_\_\_

15 Amy Minter  
16 Attorneys for Petitioners  
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