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10 Attorneys for Petitioners

11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**
14

15 CALIFORNIA CHAPARRAL INSTITUTE, a)
16 non-profit corporation, ENDANGERED)
17 HABITATS LEAGUE, a non-profit corporation;)
18 Petitioners,)
19 vs.)
20 BOARD OF FORESTRY AND FIRE)
21 PROTECTION, a public agency, CALIFORNIA)
22 DEPARTMENT OF FORESTRY AND FIRE)
23 PROTECTION, a public agency, and DOES 1)
24 through 5, inclusive,)
25 Respondents.)

Case No.

**VERIFIED PETITION FOR WRIT OF
MANDATE**

(California Environmental Quality Act)

1 **INTRODUCTION**

2 1. This action challenges the approvals by Respondent Board of Forestry and Fire Protection
3 (“Board” or “Respondent”) and Respondent California Department of Forestry and Fire Protection
4 (“Department” or “Respondent”) of the California Vegetation Treatment Program (“CalVTP” or
5 “Program”), and the related failure to comply with the California Environmental Quality Act
6 (“CEQA”), Pub. Res. Code § 21000, *et seq.*

7 2. Among other things, Respondents failed to consider the environmental impacts associated
8 with the Program, failed to prepare and circulate required environmental analysis, and failed to
9 consider and adopt feasible alternatives and mitigation.

10 3. Additionally, Respondents failed to comply with requirements of the Public Resources
11 Code.

12 4. Petitioner seeks alternative and peremptory writs of mandate declaring Respondents’
13 approvals invalid, and enjoining Respondents from taking steps to implement the approvals.

14 **PARTIES**

15 5. Petitioner California Chaparral Institute (“CCI” or “Petitioner”) is a non-profit research and
16 educational organization dedicated to the preservation of California's native chaparral ecosystem, helping
17 communities adapt to the fire-prone environments in which they live, and improving the physical and
18 mental health of individuals through reconnections with Nature. Petitioner and its members have been
19 injured as a result of Respondent’s actions. Petitioner and its members use, enjoy, and benefit from the
20 resources affected by Respondent’s actions. Respondent’s actions adversely affect the aesthetic,
21 recreational, economic, environmental, and health and safety interests of Petitioner and of Petitioner’s
22 members. The interests of Petitioner and Petitioner’s members have been and will continue to be
23 adversely affected by Respondent’s unlawful actions. The relief sought in this Petition would redress
24 Petitioner’s and Petitioner’s members’ injuries.

25 6. Petitioner Endangered Habitats League (“EHL” or “Petitioner”) is a is a tax-exempt non-
26 profit California corporation dedicated to the conservation of native ecosystems and to sustainable land
27 use and transportation planning. Since 1991, EHL has engaged in planning partnerships across Southern
28 California and worked to create habitat preserve systems, whose ecosystem functions are threatened by

1 Program approval. EHL members live and enjoy the biological diversity in areas proposed for treatment
2 and degradation under the CalVTP. Petitioner and its members have been injured as a result of
3 Respondent's actions. Petitioner and its members use, enjoy, and benefit from the resources affected by
4 Respondent's actions. Respondent's actions adversely affect the aesthetic, recreational, economic,
5 environmental, and health and safety interests of Petitioner and of Petitioner's members. The interests of
6 Petitioner and Petitioner's members have been and will continue to be adversely affected by Respondent's
7 unlawful actions. The relief sought in this Petition would redress Petitioner's and Petitioner's members'
8 injuries.

9 7. Respondent Board of Forestry and Fire Protection is a government-appointed body within the
10 California Department of Forestry and Fire Protection. It is responsible for developing the general forest
11 policy of the state, determining the guidance policies of the Department, and representing the state's
12 interest in federal forestland in California.

13 8. Respondent California Department of Forestry and Fire Protection is the State of California's
14 agency responsible for fire protection in State Responsibility Areas of California, as well as the
15 administration of the state's private and public forests.

16 9. Petitioners do not know the true names or capacities of the persons or entities sued herein as
17 Does 1 through 5, and therefore sue these respondents by such fictitious names. Petitioners will amend
18 the Petition to set forth the names and capacities of said respondents along with appropriate charging
19 allegations when the same have been ascertained.

20 **PROJECT DESCRIPTION AND HISTORY**

21 10. Since the 1980's, the California Legislature has recognized an increase in the number of
22 uncontrolled fires on wildlands in the State, resulting in destruction of important natural resources, loss
23 of recreation opportunities, and hazards to public safety.

24 11. On October 30, 2015, Governor Jerry Brown proclaimed a State of Emergency related to
25 the occurrence of extensive tree mortality throughout the State.

26 12. On May 10, 2018, Governor Brown issued Executive Order B-52-18, which, among other
27 things, required improved forest management and restoration.
28

1 13. A report prepared by the California Governor’s Wildfire Strike Force in 2019 asserted:
2 “Climate change has created a new wildfire reality for California. The state’s fire season is now almost
3 year round. More than 25 million acres of California wildlands are classified as under very high or
4 extreme fire threat.”

5 14. The Board has described its California Vegetation Treatment Program as intended “to treat
6 vegetation that could become fire fuel” and “to serve as one component of the state’s range of actions
7 to reduce wildfire risk and diminish or avoid the harmful effects of wildfire on people, property, and
8 natural resources with the California Department of Forestry and Fire Protection’s (CAL FIRE’s) State
9 Responsibility Area (SRA). The SRA is an area of more than 31 million acres of private and public
10 land”

11 15. The Board has claimed: “The treatable landscape, which is the portion of the SRA where
12 vegetation conditions are suitable for treatment, consists of approximately 20.3 million acres. As part
13 of the CalVTP, CAL FIRE and other project proponents would implement vegetation treatment
14 activities on up to approximately 250,000 acres annually within the treatable landscape.”

15 16. The Board has stated: “The proposed CalVTP consists of three treatment types: wildland-
16 urban interface (WUI) fuel reduction, fuel breaks, and ecological restoration.” It has identified five
17 objectives of the Program:

- 18 a. “serve as the vegetation management component of the state’s range of actions
19 underway to reduce risks to life, property, and natural resources ...”;
 - 20 b. “substantially increase the pace and scale of vegetation treatments to contribute to a
21 statewide total of at least 500,000 acres per year on non-federal lands ...”;
 - 22 c. “increase the use of prescribed burning as a vegetation treatment tool ...”;
 - 23 d. “contribute to meeting California’s GHG emission goals by managing forests and other
24 natural and working lands as a net carbon sink ...”; and
 - 25 e. “improve ecosystem health in fire-adapted habitats by safely mimicking the effects of a
26 natural fire regime, considering historic fire return intervals, climate change, and land
27 use constraints.”
- 28

1 17. The Board has identified five “treatment activities” to meet these objectives: prescribed
2 burning, mechanical treatment, manual treatment, prescribed herbivory, and application of herbicides.

3 18. The Board has also identified several “Standard Project Requirements” (“SPR’s”), which, it
4 claims, “are intended to avoid and minimize environmental impacts and comply with applicable laws
5 and regulations.”

6 19. On June 24, 2019, the Board issued a draft Environmental Impact Report regarding the
7 Program. Numerous comments were submitted on the DEIR, including from Petitioners. Among other
8 things, they noted concerns about the Program’s impacts to human health, community protection, air
9 quality, greenhouse gas emissions, biological resources and habitat, wetlands, wildlife movement,
10 public safety, water quality, hazardous and toxic substances, historical and cultural resources,
11 watersheds, open space, land use, community character, aesthetics, and public services, as well as
12 cumulative impacts.

13 20. Comments also noted the EIR’s failure to adequately describe the Program and to discuss
14 the environmental baseline.

15 21. Comments also noted the EIR’s failure to consider and adopt sufficient mitigation measures
16 and alternatives to address the Program’s significant impacts.

17 22. Comments, including from Petitioner, noted that none of California’s most devastating
18 wildfires have been significantly influenced by dead trees and most of these fires were far from forested
19 landscapes and for those few devastating fires that were near forests, including the Camp Fire, all of the
20 forests around the communities destroyed by fire had the types of suggested thinning and fuel treatments
21 prescribed by the CalVTP.

22 23. Comments also noted that thinning forests and creating large areas of clearance with little or
23 no vegetation creates conditions that increase the rate of fire movement, facilitates the spread of embers,
24 and allows for increased wind speeds that create a "bowling alley" effect for embers to target structures,
25 the key factor in home ignition.

26 24. A Final EIR (“FEIR”) was published on November 27, 2019.

27 25. The EIR noted it would be the only analysis of the Program’s impacts in many instances. It
28 claimed the EIR “functions as a Program EIR in accordance with State CEQA Guidelines Section

1 15168(c) for streamlining later activities.” Regarding future activities of CAL FIRE “or other project
2 proponents,” the EIR stated that if “the project proponent finds that the impacts were analyzed in the
3 PEIR, ... no additional CEQA documentation would need to be prepared or publicly circulated.” The
4 EIR also asserted this approach “would facilitate an increase in the pace and scaled of project
5 approvals” and claimed: “If a later EIR is prepared, it could be limited in its scope to the new or
6 substantially more severe impact”

7 26. Numerous additional comments, including from Petitioners, were received regarding the
8 Program and FEIR. These comments noted the continuing failures to address the Program’s impacts
9 and the continued insufficiency of the environmental analysis. Comments also noted the Board’s
10 failure to adequately respond to comments that had been submitted on the draft EIR.

11 27. Comments, including from Petitioners, noted the failure to account for plant community
12 extirpation due to projected climate change impacts and how the cumulative impact of their treatments
13 will accelerate those impacts. They also noted the contradiction between the Board’s assertion that
14 chaparral is suffering from too much fire and Program’s targeting of chaparral areas for “ecological
15 restoration” via prescribed burning or other habitat clearance techniques. Comments also noted the
16 Board’s failure to recognize that although “fuel” treatments can provide help during fire suppression of
17 non-wind-driven fire events, they consistently fail when it matters most - during the wind-driven wildfires
18 that cause all the devastation since all of the most devastating fires in California have been wind-driven.

19 28. Comments noted that Petitioner and others had been addressing these concerns with the Board
20 and others since at least 2005.

21 29. On December 11, 2019, the Board met to consider the Program and the EIR. Testimony in
22 opposition, including from Petitioner, was received regarding numerous concerns. The Board voted to
23 continue the hearing.

24 30. On December 30, 2019, the Board voted to approve the Program and EIR.

25 31. Approvals included: Resolution No. 2019-01, certifying the FEIR and Resolution No. 2019-
26 02, approving the Program, adopting mitigation measures and a Mitigation, Monitoring and Reporting
27 Program, and adopting CEQA Findings and a Statement of Overriding Considerations.

28 32. A Notice of Determination was filed on December 30, 2019.

1 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**
2 **AND INADEQUATE REMEDIES AT LAW**

3 33. Petitioners exhausted all available administrative remedies, and objections to the Project
4 have been presented orally and in writing to the Board, as required by Public Resources Code Section
5 21177. These include, but are not limited to, letters and oral comments presented during public
6 hearings.

7 34. Petitioners have complied with the requirements of Public Resources Code Section
8 21167.5 by mailing a written notice of commencement of this action to the Board. A true and correct
9 copy of that notice is attached hereto as Exhibit 1.

10 35. Petitioners have advised the Board that Petitioners have elected to prepare the record of
11 proceedings relevant to the approval of the Program, pursuant to Public Resources Code Section
12 21167.6. A true and correct copy of that notice is attached hereto as Exhibit 2.

13 36. Petitioners have complied with Public Resources Code Section 21167.7 by filing a copy of
14 the original petition with the California Attorney General. A true and correct copy of the notification
15 is attached hereto as Exhibit 3.

16 37. Petitioners have no adequate remedy at law unless the Court grants the requested writ of
17 mandate requiring the Board to set aside its approval of the Program and the EIR. In the absence of
18 such remedy, the Board’s approvals will remain in effect in violation of State law, and Petitioners will
19 suffer irreparable harm because of the significant adverse environmental impacts generated by the
20 Program.

21 **FIRST CAUSE OF ACTION**
22 **(FAILURE TO COMPLY WITH CEQA PROCEDURAL REQUIREMENTS)**

23 38. Petitioners incorporate by reference each of the allegations set forth in this Petition as if set
24 forth herein in full.

25 39. The FEIR fails to meet the requirements for an objective analysis of impacts.

26 40. Respondents failed to recirculate the EIR after substantial changes were made.

27 41. Respondents failed to revise the EIR or prepare supplemental analysis after substantial
28 changes were made to the Program.

1 42. Respondents failed to follow procedures mandated by CEQA, including but not limited to,
2 failing to notify responsible agencies, failing to provide proper notice for public involvement, failing to
3 provide adequate information in the EIR and allow adequate opportunity for public input, and failing to
4 provide adequate access to Program-related documents.

5 **SECOND CAUSE OF ACTION**
6 **(FAILURE TO ADEQUATELY CONSIDER ENVIRONMENTAL IMPACTS AS REQUIRED**
7 **BY CEQA)**

8 43. Petitioners incorporate by reference each of the allegations set forth in this Petition as if set
9 forth herein in full.

10 44. Respondents’ approval of the EIR constituted a prejudicial abuse of discretion in that the EIR
11 is not in accord with CEQA, the CEQA Guidelines, and case law, but rather is legally inadequate and
12 insufficient in numerous respects, including but not limited to, the following:

- 13 a. The Project description is not stable and finite, and is unclear, inconsistent, skewed,
14 inaccurate and incomplete in numerous respects;
- 15 b. The FEIR fails to discuss the existing environmental conditions in the affected area,
16 including but not limited to, conditions on the ground and current planning conditions;
- 17 c. The FEIR fails to analyze adequately the significant adverse direct, indirect and
18 cumulative effects of the Program, including but not limited to, the following:
 - 19 i. Human health and safety impacts, including impacts to area residents, toxins,
20 groundwater contamination and soil contamination, impacts associated with
21 cumulative exposures to several different sources of emissions, impacts
22 associated with likely future emissions, impacts associated with loss of
23 recreation, impacts associated with micro-climate changes, impacts associated
24 with increased fire risk, and impacts associated with exposures to sensitive
25 individuals and other sensitive receptors;
 - 26 ii. Air quality impacts, including but not limited to, failing to adequately analyze
27 impacts, failing to address reasonably foreseeable impacts, failing to adopt
28 mitigation measures for significant impacts to air quality, and failing to consider
a reasonable range of alternatives;

- 1 iii. Biological resource impacts, including but not limited to, failing to address impacts
2 to open space, failing to address impacts to sensitive habitats and plant and animal
3 species, failing to consider impacts of biological resources below the soil, failing to
4 address impacts of mitigation proposed, failing to address impacts to wildlife
5 corridors and wildlife movement, failing to protect important resources, relying
6 upon old and inadequate survey data, lack of a synthesized project analysis, failing
7 to provide a regional context, failing to address impacts to wetlands and wetland
8 species, failing to provide for adequate protection of riparian areas, and failing to
9 address impacts to other species of concern;
- 10 iv. Greenhouse gas emission impacts, including but not limited to, failing to
11 adequately analyze impacts, failing to adopt mitigation measure for significant
12 impacts to greenhouse gas emissions, failing to analyze net loss of carbon
13 sequestration with the removal of vegetation and damage to the ability of soils to
14 sequester carbon as a result of vegetation treatment activities, and failing to
15 address a reasonable range of alternatives;
- 16 v. Hydrological and water quality impacts, including but not limited to, failing to
17 address reasonably foreseeable impacts and the introduction of pollutants to
18 groundwater and surface water, failing to address impacts associated with
19 erosion, and failing to adopt mitigation measures to address impacts;
- 20 vi. Land use and community character impacts, including but not limited to, failing to
21 adequately analyze impacts, and failing to address impacts to neighborhood and
22 community character;
- 23 vii. Visual effects and neighborhood character, including but not limited to, failing to
24 adequately analyze impacts, failing to address impacts to existing resources,
25 failing to address impacts to neighboring homes, failing to adopt mitigation
26 measure for significant impacts to visual effects and neighborhood character, and
27 failing to address a reasonable range of alternatives;
- 28

- 1 viii. Transportation and traffic impacts, including but not limited to, failing to
2 consider existing conditions, failing to adequately analyze impacts, failing to
3 address reasonably foreseeable impacts to traffic and traffic safety, failing to
4 recognize the Program’s impacts in relation to existing problems and failing
5 streets and intersections, failing to address safety considerations associated with
6 existing and Program traffic, failing to assess impacts associated with
7 evacuation during emergencies, using incorrect criteria to determine impacts,
8 failing to adopt mitigation measures for significant impacts to traffic;
- 9 ix. Toxics and toxic substances impacts, including impacts associated with
10 hazardous wastes and materials, polluted air quality, polluted surface water and
11 groundwater, and polluted soils, and failing to address requirements for the
12 handling and disposal of toxic and hazardous substances and waste;
- 13 x. Noise impacts, including but not limited to, failing to consider existing noise
14 conditions, failing to adequately analyze impacts, failing to address reasonably
15 foreseeable impacts, failing to adopt mitigation measures for significant impacts
16 to noise, and failing to address a reasonable range of alternatives;
- 17 xi. Historic and tribal cultural resource impacts, including but not limited to, failing
18 to adequately analyze impacts, failing to adopt mitigation measure for
19 significant impacts to historic and tribal cultural resources, and failing to address
20 a reasonable range of alternatives;
- 21 xii. Paleontological resources impacts, including but not limited to, failing to
22 adequately analyze impacts, failing to adopt mitigation measures for significant
23 impacts to paleontological resources, and failing to address a reasonable range
24 of alternatives;
- 25 xiii. Natural resource impacts, including but not limited to, failing to address soils
26 and geology in the area;
- 27 xiv. Public services and facilities impacts, including but not limited to, failing to
28 consider existing public facility conditions and supply, failing to consider

1 reasonably foreseeable impacts, failing to address impacts to parks and recreation,
2 police, paramedic, fire services, and water supply, and failing to adopt adequate
3 mitigation measures for significant impacts to public services and facilities;

- 4 d. The EIR fails to consider adequately the cumulative impacts of the Program and other
5 projects that are either existing, approved, planned, or reasonably foreseeable, including
6 future projects and other developments located both within and outside of Respondent's
7 area of responsibility;
- 8 e. The EIR illegally defers analysis of reasonably foreseeable impacts;
- 9 f. The EIR improperly segments the Program, piecemealing or otherwise avoiding
10 reasonably foreseeable impacts, and separately focusing on isolated parts of the whole;
- 11 g. The EIR fails to consider adequately impacts that narrow the range of beneficial uses of
12 the environment, in violation of Section 15126(e) of the CEQA Guidelines;
- 13 h. The EIR fails to address adequately impacts that cannot be mitigated, including but not
14 limited to, describing their implications and the reasons why the Program is being
15 proposed notwithstanding its adverse effects;
- 16 i. The EIR fails to consider adequately the significant irreversible effects of the Program,
17 in violation of Section 15126(f) of the CEQA Guidelines, including but not limited to,
18 air quality impacts; traffic circulation impacts; noise impacts; and the change in the
19 existing community character;
- 20 j. The EIR fails to analyze adequately a reasonable range of alternatives to the Program,
21 which could reduce substantially Program related impacts, and to evaluate the
22 comparative merits of the alternatives;
- 23 k. The EIR fails to analyze adequately feasible mitigation measures, fails to provide for
24 mitigation for each environmental effect, illegally relies upon deferred mitigation
25 measures, and fails to provide for effective and enforceable mitigation; and

26 45. Respondents, in determining the significance of the environmental effects caused by the
27 Program, failed to consider adequately substantial evidence of environmental impacts that may be
28 significant in violation of Section 15064(b) of the CEQA Guidelines.

1 46. Respondents failed to respond adequately to public comments.

2 **THIRD CAUSE OF ACTION**
3 **(FAILURE TO ADOPT FEASIBLE MITIGATION MEASURES AND ALTERNATIVES**
4 **REQUIRED BY CEQA)**

5 47. Petitioners incorporate by reference each of the allegations set forth in this Petition as if set
6 forth herein in full.

7 48. Respondents failed to consider and adopt feasible alternatives, including but not limited to,
8 alternatives requiring less impacts that meet some or all of the Program objectives.

9 49. Respondents failed to adopt the environmentally superior alternative.

10 50. Respondents failed to consider and adopt feasible mitigation measures, failed to mitigate for
11 each environmental effect, illegally deferred mitigation, and failed to provide for effective and enforceable
12 mitigation.

13 51. Respondents identified various significant impacts of the Program, including but not limited
14 to, significant impacts to aesthetics, air quality, archaeological, historical and tribal cultural resources,
15 biological resources, greenhouse gas emissions, transportation, and public services, utilities and service
16 systems, yet failed, without explanation or support, to adopt feasible mitigation measures or alternatives to
17 address these impacts.

18 **FOURTH CAUSE OF ACTION**
19 **(FAILURE TO ADOPT FINDINGS THAT ARE SUPPORTED BY EVIDENCE IN THE**
20 **RECORD)**

21 52. Petitioners incorporate by reference each of the allegations set forth in this Petition as if set
22 forth herein in full.

23 53. Respondents failed to adopt findings that are supported by substantial evidence in the
24 record.

25 54. Among other things, the findings assert that the Program will have less than significant
26 impacts to human health, aesthetics and visual resources, agricultural and forestry resources, air
27 quality, archaeological, historical and tribal cultural resources, biological resources, geology, soils and
28 mineral resources, greenhouse gas emissions, energy resources, hazardous materials, public health and
safety, hydrology and water quality, land use and planning, population and housing, noise, recreation,

1 transportation, public services, utilities and service systems, wildlife, and cumulative impacts where
2 there is insufficient evidence to support such findings.

3 55. Additionally, the findings rely upon old and inadequate data, lack a synthesized analysis, fail
4 to provide a regional context, and fail to address significant and relevant criteria.

5 56. Additionally, the Board failed to make the findings required by Public Resources Code Section
6 4483.

7 **FIFTH CAUSE OF ACTION**
8 **(FAILURE TO ADOPT A STATEMENT OF OVERRIDING CONSIDERATIONS THAT IS**
9 **SUPPORTED BY EVIDENCE IN THE RECORD)**

10 57. Petitioners incorporate by reference each of the allegations set forth in this Petition as if set
11 forth herein in full.

12 58. Respondents failed to adopt a Statement of Overriding Considerations that is supported by
13 substantial evidence in the record despite the Program’s significant environmental impacts.

14 **SIXTH CAUSE OF ACTION**
15 **(VIOLATION OF PUBLIC RESOURCES CODE SECTION 4483)**

16 59. Petitioners incorporate by reference each of the allegations set forth in this Petition as if set
17 forth herein in full.

18 60. The Program violates and is inconsistent with Public Resources Code Section 4483.

19 61. Among other things, the Board failed to provide “additional consideration ... for chaparral and
20 coastal sage scrub plant communities that are being increasingly threatened by fire frequency in excess of
21 their natural fire return patterns”

22 62. Additionally, the Board failed to ensure that treatments of “chaparral and coastal sage scrub
23 occur only if [it] finds that the activity will not cause ‘type conversion’ away from the chaparral and
24 coastal sage scrub currently on site.”

25 63. Among other things, the Program illegally: (1) fails to distinguish and protect chaparral within
26 forests, (2) fails to properly define and identify "type conversion" of vegetation, (3) fails to define or
27 provide uniform metrics to measure natural habitat function of chaparral and other shrubland alliances to
28 evaluate the need for ecological restoration and/or removal of up to 65% shrub cover, (4) avoids

1 responsibility and determination of the project proponent, and (5) allows type conversion when Section
2 4483(b)(2) clearly prohibits such "away from the chaparral and coastal sage scrub currently on site."

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Petitioners pray for relief as follows:

5 A. For a temporary restraining order, preliminary injunction and/or permanent injunction
6 enjoining Respondents from taking any steps to further the Program until lawful approval is obtained from
7 Respondents after the preparation and consideration of adequate environmental analysis, with adequate
8 notice to interested parties, adoption of findings supported by substantial evidence, and compliance with
9 applicable requirements;

10 B. For alternative and peremptory writs of mandate, vacating approval of the FEIR and all
11 aspects of the Program, and enjoining Respondents from taking any steps to further the Plan until lawful
12 approval is obtained from Respondents after the preparation and consideration of adequate environmental
13 analysis, with adequate notice to interested parties, adoption of findings supported by substantial evidence,
14 and compliance with applicable requirements;

15 C. For costs of suit;

16 D. For reasonable attorneys' fees; and

17 E. For such other and further relief as the Court deems just and proper.

18 DATED: January 28, 2020

Respectfully Submitted,

19 **DELANO & DELANO**

20
21 By: s//Everett L. DeLano III
22 Everett L. DeLano III
23 Attorneys for Petitioners
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27
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DELANO & DELANO

January 28, 2020

VIA E-MAIL & U.S. MAIL

Matt Dias, Executive Officer
State Board of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460

Chief Thom Porter, Director
Department of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460

Re: Notice of Intention to Commence Action Under the California Environmental Quality Act

Dear Board of Forestry and Fire Protection and Department of Forestry and Fire Protection:

Please take notice that California Chaparral Institute and Endangered Habitats League intend to commence an action in California Superior Court, alleging, among other things, violations of the California Environmental Quality Act ("CEQA") against the Board of Forestry and Fire Protection ("Board") and the Department of Forestry and Fire Protection ("Department") to challenge the approvals of the California Vegetation Treatment Program ("Program") and adoption of a Program Final Environmental Impact Report ("FEIR"), including approval of Resolution No. 2019-01, certifying the FEIR, and Resolution No. 2019-02, approving the Program, adopting mitigation measures and a Mitigation, Monitoring and Reporting Program, and adopting CEQA Findings and a Statement of Overriding Considerations. Among other things, the petition will seek to vacate the approvals of the Program, and to enjoin the Board and Department from taking any further steps to implement the approvals.

If the Board and Department would like to discuss these concerns and their possible resolution, please contact the undersigned immediately. Thank you for your attention to this matter.

Sincerely,

Everett DeLano

EVERETT L. DELANO III
Admitted in California and Colorado

M. DARE DELANO
Admitted in California and New York

TYLER T. HEE
Admitted in California and Hawaii

EXHIBIT 2

1 Everett L. DeLano III (Calif. Bar No. 162608)
2 M. Dare DeLano (Calif. Bar No. 196707)
3 Tyler T. Hee (Calif. Bar No. 316148)
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10 Attorneys for Petitioners

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**
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15 CALIFORNIA CHAPARRAL INSTITUTE, a)
16 non-profit corporation, ENDANGERED)
17 HABITATS LEAGUE, a non-profit corporation;)
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20 BOARD OF FORESTRY AND FIRE)
21 PROTECTION, a public agency, CALIFORNIA)
22 DEPARTMENT OF FORESTRY AND FIRE)
23 PROTECTION, a public agency, and DOES 1)
24 through 5, inclusive,)
25 Respondents.)

Case No.)
NOTICE OF ELECTION TO PREPARE
ADMINISTRATIVE RECORD
(California Environmental Quality Act)

26 By this notice, Petitioners give notice that Petitioners elect to prepare the administrative record in
27 the above-entitled action.

28 DATED: January 28, 2020

Respectfully Submitted,
DELANO & DELANO

By: s//Everett L. DeLano III
Everett L. DeLano III
Attorneys for Petitioners

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EXHIBIT 3

1 **PROOF OF SERVICE**

2 *California Chaparral Institute v. Board of Forestry and Fire Protection*

3 I, the undersigned, declare:

- 4 1. I am over the age of 18 years and not a party to this action. I am employed in the County of San
- 5 Diego, California, in which county the within mentioned service occurred. My business address
- 6 is 104 W. Grand Avenue, Suite A, Escondido CA 92025.
- 7 2. I am familiar with this office's normal business practice for collection and processing of
- 8 correspondence for mailing with the U.S. Postal Service. That practice is to deposit
- 9 correspondence with the U.S. Postal Service the same day as the day of collection in the ordinary
- 10 course of business.
- 11 3. On January 28, 2020, I served a copy of **VERIFIED PETITION FOR WRIT OF MANDATE**
- 12 to the following by the following means:

13 California Attorney General
 14 Service Deputy
 15 300 South Spring St.
 16 Los Angeles, CA 90013

17 *U.S. Mail*

18 I declare under penalty of perjury that the foregoing is true and correct.

19 Dated this Tuesday, January 28, 2020 at Escondido, California,

20 

21 M. Dare DeLano