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Center for Biological Diversity
and AquAlliance

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF BUTTE

SIERRA CLUB; CENTER FOR
BIOLOGICAL DIVERSITY; and
AQUALLIANCE

Petitioners

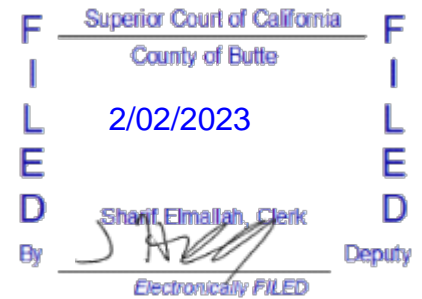
v.

CITY OF CHICO; CITY COUNCIL OF THE
CITY OF CHICO, and DOES 1 to 20,

Respondents

CHICO LAND INVESTMENTS, LLC; and
DOES 21 to 100,

Real Parties in Interest



Case No. 23CV00376

**VERIFIED PETITION FOR
WRIT OF MANDATE**

[Action Under the California
Environmental Quality Act,
Pub Resources Code, § 21000 *et seq.*]

INTRODUCTION

1. By this action, Petitioners SIERRA CLUB, CENTER FOR BIOLOGICAL DIVERSITY and AQUALLIANCE challenge Respondents CITY OF CHICO and CITY COUNCIL OF THE CITY OF CHICO's January 3, 2023 certification of the Final Environmental Impact Report ("FEIR" or "EIR") for Valley's Edge Specific Plan ("VESP") and required findings under the California Environmental Quality Act ("CEQA"), Public Resources Code, § 21000 *et seq.*, and approval of the VESP ("Project").

2. Respondents failed to proceed in the manner required by law, and thus prejudicially abused their discretion, in violation of the CEQA, Public Resources Code §§ 21000 *et seq.*, and the CEQA Guidelines, Title 14, California Code of Regulations § 15000 *et seq.*

3. Petitioners seek a determination from this Court that Respondents' approval of the Project is invalid and void and that the Final Environmental Impact Report prepared for the Project fails to satisfy the requirements of CEQA, and the CEQA Guidelines, Title 14, California Code of Regulations, § 15000 *et seq.*

PARTIES

4. Petitioner Sierra Club is a California nonprofit membership organization incorporated under the laws of the State of California in 1892. Currently, the Sierra Club has approximately 820,000 members, approximately 180,000 of whom live in California. Approximately 20,000 members belong to the Sierra Club's Motherlode Chapter, which includes approximately 2,100 member of the Blue Oak Group in Butte County. The Sierra Club functions to educate and enlist people to protect and restore the natural and human environment, to practice and promote responsible use of the earth's ecosystems and resources, to explore, enjoy, and protect wild places, and to use all lawful means to achieve these objectives. The Sierra Club has expressed particular concern for the environment in which its members live, including Butte County. Chapter members live, work, travel and enjoy recreational activities in Butte County. Sierra Club and its members are adversely affected by Respondents' failure to comply with CEQA in approving the Project. Sierra Club submitted written comments on the Draft EIR and Final EIR.

1 5. Petitioner CENTER FOR BIOLOGICAL DIVERSITY (“Center”) is a national
2 conservation organization and California nonprofit corporation that works through science,
3 law, and policy to secure a future for all species, great or small, hovering on the brink of
4 extinction. The Center has over 89,000 members worldwide, including many in Butte County.
5 The Center has worked for many years to protect imperiled plants and wildlife, open space, air
6 and water quality, and the overall quality of life for people in Butte County. Center members
7 reside and own property throughout California as well as those areas in Butte County affected
8 by the approved VESP. The Center and its members would be directly, adversely and
9 irreparably harmed by the Project and its components, as described herein, until and unless this
10 Court provides the relief prayed for in this petition. The Center submitted written comments
11 on the Draft EIR and Final EIR.

12 6. Petitioner AQUALLIANCE is a non-profit public interest corporation based in
13 Chico, California. AquAlliance’s mission is to defend northern California waters and to
14 challenge threats to the hydrologic health of the Sacramento River watershed to sustain family
15 farms, communities, creeks and rivers, native flora and fauna, vernal pools and the sensitive
16 species that rely on them, and recreation. AquAlliance has approximately 650 members who
17 rely on Sacramento Valley groundwater for their livelihoods and live, recreate and work in and
18 around waters of the State of California, including the Sacramento River, its tributaries, and
19 the Sacramento-San Joaquin River Bay Delta. AquAlliance submitted written comments on
20 the Draft EIR and Final EIR.

21 7. The environment and residents of Butte County will be directly affected by the
22 impacts of the Project. Petitioners’ respective members live, work, travel, and enjoy
23 recreational activities in Butte County. These members have a particular interest in the
24 protection of the environment of Butte County, and are increasingly concerned about
25 worsening environmental, water, and land use conditions that detrimentally affect their well-
26 being and that of other residents and visitors of Butte County. Petitioners members have a
27 direct and substantial beneficial interest in ensuring that Respondents comply with laws
28

1 relating to the protection of the environment and human health. Petitioners and their members
2 are adversely affected by Respondents' failure to comply with CEQA in approving the Project.

3 8. Respondent CITY OF CHCIO is a political subdivision of the State of California
4 and a body corporate and politic exercising local government power. The City of Chico is the
5 CEQA "lead agency" for the Project. As lead agency for the Project, the City of Chico is
6 responsible for preparation of an environmental document that describes the Project and its
7 impacts, and, if necessary, evaluates mitigation measures and/or alternatives to lessen or avoid
8 any significant environmental impacts.

9 9. Respondent CITY COUNCIL OF THE CITY OF CHICO is a legislative body duly
10 authorized under the California Constitution and the laws of the State of California to act on
11 behalf of the City of Chico.

12 10. Petitioners are unaware of the true names and capacities of Respondents identified
13 as Does 1-20. Petitioners are informed and believe, and on that basis, allege, that Respondents
14 Does 1-20, inclusive, are individuals, entities or agencies with material interests affected by the
15 Project with respect to the Project or by the City's actions with respect to the Project. When the
16 true identities and capacities of these Respondents have been determined, Petitioners will, with
17 leave of Court if necessary, amend this Petition to insert such identities and capacities.

18 11. Real Party in Interest CHICO LAND INVESTMENTS, LLC, is a limited liability
19 corporation formed pursuant to the laws of the State of California with its principal place of
20 business at 2550 Lakewest Drive, Suite 50, Chico, California 95928. Chico Land Investments,
21 LLC is identified as the Project applicant and recipient of Project approvals.

22 12. Petitioners are unaware of the true names and capacities of Real Parties in Interest
23 identified as Does 21-100. Petitioners are informed and believe, and on that basis, allege, that
24 Respondents Does 21-100, inclusive, are individuals, entities or agencies with material interests
25 affected by the Project or by the City's actions with respect to the Project. When the true
26 identities and capacities of these Real Parties in Interest have been determined, Petitioners will,
27 with leave of Court if necessary, amend this Petition to insert such identities and capacities.
28

BACKGROUND INFORMATION

A. THE PROJECT LOCATION

13. The Project site is located within unincorporated Butte County approximately 1.25 miles east of State Route 99 and is generally bounded by the Steve Harrison Memorial Bike Path and adjacent undeveloped land, the recently approved Stonegate Vesting Tentative Subdivision Map and General Plan Amendment/Rezone on the west, Honey Run Road and Skyway on the south, undeveloped land on the east, and E. 20th Street, Lazy S Lane and Stilson Canyon on the north. The project site consists of six Assessor's Parcel Numbers (APNs): 018-390-005, 018-390-007, 017-210-005, 017-210-006, 017-240-023, and 017-260-119.

14. The Project site is located adjacent to the southeast quadrant of the City at the transition of the valley floor and lower foothill region.

15. The Project site is defined by large grassland mesas with sloped edges that descend to oak woodlands and intermittent streams. The mesas were created by ancient lava flows resulting in a rocky area with escarpments forming ridgelines dotted with blue oaks. Stacked rock walls from prior ranching uses are visible along with rocks (lava cap) dotting the flatter areas proposed for future development. The southwest portion of the Project site contains the remnants of a former ranch.

16. Chico's 2030 General Plan identifies the Project site as one of five Special Planning Areas (SPAs), referred to as the "Doe Mill/Honey Run SPA" or SPA-5. The General Plan provides that the planned growth areas are to be developed as complete neighborhoods with a mix of housing, services, employment, parks, and open space designed to meet the City's future housing and employment needs. The General Plan also requires that the City approve a specific plan, planned development or other comprehensive plan for each SPA prior to its development.

17. The Project site's northern boundary of the project site consists of gradual slopes atop an elevated plateau overlooking rural Stilson Canyon, a largely developed area comprised of estate lot single-family homes. The City of Chico abuts the Project site's northwest corner. Land to the west is planned as an open space preserve. Land upslope of the entire eastern boundary of the Project site is undeveloped, zoned AG-160 (160-acre minimum) by the County

1 and has historically been used for winter cattle grazing. The Project site's southeast boundary
2 borders Honey Run Road. Land uses along the south side of Honey Run Road consist primarily
3 of single-family homes on large parcels ranging from 1.6-acres to 15-acres, under the
4 jurisdiction of Butte County. The Steve Harrison Memorial Bike Path (Bike Path) forms the
5 western boundary of the project site.

6 **B. THE PROJECT**

7 18. The VESP Project site is approximately 1,448 acres and will consist of 2,777
8 dwelling units, ranging from 0.54 dwelling unit per acre (du/ac) to 18.0 du/ac on approximately
9 600 acres. The VESP includes approximately 447,155 square feet (sf) of commercial
10 development on approximately 56 acres. The remainder of the Project site consists parks, open
11 space, public facilities, and roadway infrastructure.

12 19. The Project requires annexation and of land that is located in unincorporated Butte
13 County, but within the City's Sphere of Influence.

14 20. Approximately 1,357 dwelling units will be restricted to residents 55+ years of age
15 and older. The senior housing will be located in the central/southern portion of the Project site
16 on approximately 255-acres.

17 21. The multi-generational neighborhood will include 1,420 dwelling units primarily in
18 the northern portion of the Project site along Stilson Canyon Ridge, including areas south in and
19 around the Village Core.

20 22. Based on the City's average of 2.4 persons per household (PPH) for non-age-
21 restricted households and 1.67 PPH for households with residents 55 years or older, the Project
22 will provide housing for approximately 5,654 residents.

23 23. The land uses include Very Low Density Residential (14 dwelling units on 26
24 acres), Low Density Residential (1,648 dwelling units on 465 acres), Medium Density
25 Residential (953 units on 100 acres), Medium-High Density Residential (162 dwelling units on 9
26 acres), Commercial (57 acres), a 19-acre school site, Primary Open Space (46 acres), Secondary
27 Open Space (687 acres) including a 36-acre community park site, and street right of-way.
28

1 **C. THE CITY’S ENVIRONMENTAL REVIEW FOR THE PROJECT**

2 24. On August 14, 2019, the City issued a Notice of Preparation of an Environmental
3 Impact Report for the Project.

4 25. In October 2021, the City released the Draft EIR for a 45-day public review and
5 comment period from November 1, 2021 to December 15, 2021. Petitioners timely submitted
6 comments on the Draft EIR.

7 26. On November 18, 2021, the Planning Commission held a public meeting to receive
8 verbal comments on the Draft EIR.

9 27. On October 17, 2022, the City released the Valley’s Edge Specific Plan Final EIR.
10 Petitioners Sierra Club and the Center also submitted comments on the Valley’s Edge Specific
11 Plan Final EIR. The EIR determined that the Project would result in significant and unavoidable
12 impacts regarding aesthetics and greenhouse gas emissions.

13 **D. THE CITY’S CERTIFICATION OF THE FINAL EIR AND APPROVAL OF THE**
14 **PROJECT**

15 28. On December 1, 2022, the City’s Planning Commission held a public hearing to
16 review and consider the Final Environmental Impact Report and Project. The Planning
17 Commission voted 5-2 to recommend that the City Council certify the EIR, adopt the Findings,
18 Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program,
19 and approve the Project.

20 29. On January 3, 2023, 2020, the City Council held a public hearing to review and
21 considered the Final EIR and the Project. The City Council certified the Final EIR and
22 approved the Project through the following actions:

23 a. Resolution of the City Council of the City of Chico Certifying the
24 Adequacy of the Environmental Impact Report for the Valley’s Edge Specific Plan;

25 b. Resolution of the City Council of the City of Chico: 1) Adopting Findings
26 Regarding Environmental Effects, 2) Adopting a Statement of Overriding Considerations, and
27 3) Adopting a Mitigation Monitoring and Reporting Program for the Valley’s Edge Specific
28 Plan;

- 1 c. Resolution of the City Council of the City of Chico Approving General
2 Plan Amendment 22-03;
- 3 d. Ordinance of the City Council of the City of Chico Amending the
4 Rezoning of the Property Within the Valley's Edge Specific Plan Area;
- 5 e. Ordinance of the City Council of the City of Chico Amending Title 19 of
6 the Chico Municipal Code to Add the Valley's Edge Specific Plan Zoning Overlay District;
- 7 f. Resolution of the City Council of the City of Chico Adopting the Valley's
8 Edge Specific Plan
- 9 g. Ordinance of the City Council of the City of Chico Approving the
10 Development Agreement Between the City of Chico and Chico Land Investments, LLC;

11 30. On January 17, 2023, the City Council held the final reading and adoption of the
12 following ordinances:

- 13 a. Ordinance of the City Council of the City of Chico Amending the
14 Rezoning of the Property Within the Valley's Edge Specific Plan Area;
- 15 b. Ordinance of the City Council of the City of Chico Amending Title 19 of
16 the Chico Municipal Code to Add the Valley's Edge Specific Plan Zoning Overlay District;
- 17 c. Ordinance of the City Council of the City of Chico Approving the
18 Development Agreement Between the City of Chico and Chico Land Investments, LLC;

19 31. On January 4, 2023, Respondents filed a Notice of Determination with the Butte
20 County Clerk as provided by Public Resources Code section 21152.

21 32. On January 18, 2023, after adoption the three Ordinances, Respondents filed a
22 second Notice of Determination with the Butte County Clerk as provided by Public Resources
23 Code section 21152.

24 **JURISDICTION AND VENUE**

25 33. This Court has jurisdiction over the matters alleged in this Petition pursuant to
26 Code of Civil Procedure section 1094.5, and Public Resources Code section 21168. In the
27 alternative, this Court has jurisdiction pursuant to Code of Civil Procedure section 1085 and
28 Public Resources Code section 21168.5.

1 34. Pursuant to Code of Civil Procedure section 394(a) venue is proper in this Court
2 because the Respondents are located within the County of Butte.

3 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**
4 **AND INADEQUACY OF REMEDY**

5 35. Petitioners have performed any and all conditions precedent to filing the instant
6 action and have exhausted any and all available administrative remedies to the extent required
7 by law.

8 36. Petitioners have complied with the requirements of Public Resources Code section
9 21167.5 by mailing written notice of this action to the Respondents. A copy of this written
10 notice and proof of service are attached as Exhibit A to this Petition for Writ of Mandate.

11 37. Petitioners have complied with Public Resources Code section 21167.6 by
12 concurrently filing a request concerning preparation of the record of administrative proceedings
13 relating to this action.

14 38. Petitioners have no plain, speedy or adequate remedy in the course of ordinary law
15 unless this Court grants the requested writ of mandate to require Respondents to set aside their
16 approval of the Project and certification of the EIR. In the absence of such remedies, the
17 Respondents approval will remain in effect in violation of State law.

18 39. This action has been brought within 30 days of Respondents filing of the Notice of
19 Determination as required by Public Resources Code section 21167(c).

20 **STANDING**

21 40. Because Petitioners' and their respective members' aesthetic and environmental
22 interests are directly and adversely affected by the Respondents' approval of the Project, and
23 because they participated at every phase of the EIR process submitting oral and written
24 comments at the Draft EIR and Final EIR stages, Petitioners have standing to bring this action.

25 **CAUSE OF ACTION**
26 **FIRST CAUSE OF ACTION**
 (Violation of the California Environmental Quality Act)

27 41. Petitioners reallege and incorporate by reference Paragraphs 1 through 40,
28 inclusive, of this Petition, as if fully set forth below.

1 42. CEQA is designed to ensure that long-term protection of the environment be the
2 guiding criterion in public decisions. CEQA requires the lead agency for a project with the
3 potential to cause significant environmental impacts to prepare an EIR that complies with the
4 requirements of the statute, including, but not limited to, the requirement to analyze the
5 project's potentially significant environmental impacts. The EIR must provide sufficient
6 environmental analysis such that the decisionmakers can intelligently consider environmental
7 consequences when acting on the proposed project. Such analysis must include and rely upon
8 thresholds of significance that are based on substantial evidence before the decisionmakers.
9 Additionally, the EIR must analyze feasible mitigation measures and a reasonable range of
10 alternatives to the project.

11 43. CEQA also mandates that the lead agency adopt feasible and enforceable
12 mitigation measures that would reduce or avoid any of a project's significant environmental
13 impacts. If any of the project's significant impacts cannot be mitigated to a less than
14 significant level, then CEQA bars the lead agency from approving a project if a feasible
15 alternative is available that would meet the project's objectives while avoiding or reducing its
16 significant environmental impacts.

17 44. CEQA requires that substantial evidence in the administrative record support all
18 of the EIR and agency's findings and conclusions, and that the agency explain how the
19 evidence in the record supports the conclusions the agency has reached.

20 45. Respondents committed a prejudicial abuse of discretion and failed to proceed in
21 a manner required by law by relying on an EIR that fails to meet the requirements of CEQA
22 for disclosure, analysis, and/or mitigation of significant project impacts, including on
23 biological resources, special status species, wildlife movement, air quality, public health,
24 greenhouse gases, wildfire hazards, water resources, water supply, wetlands, water quality,
25 traffic, aesthetics, noise, and applicable land use policies

26 46. The EIR failed to comply with CEQA's requirements in that it failed to adequately
27 disclose, analyze and/or mitigate the Project's significant environmental impacts and cumulative
28

1 impacts as required by law, and its conclusions regarding the Project's environmental impacts
2 are not supported by substantial evidence.

3 **a. Aesthetics.** The EIR failed to adequately describe and analyze the
4 Project's aesthetic impacts. The EIR assumed compliance with existing plans and policies
5 would mitigate impacts to scenic views to less than significant. The EIR, however, failed to
6 discuss and disclose how compliance with the plans will mitigate the Project's impacts.

7 **b. Biological Resources.** The EIR failed to adequately disclose, analyze
8 and/or mitigate the Project's significant impacts to biological resources, including numerous
9 species affected by the Project.

10 i. The EIR failed to adequately assess and mitigate the Project's
11 impacts to Butte County meadowfoam ("BCM") and other special-status vernal pool species,
12 including conservancy fairy shrimp, vernal pool fairy shrimp, and vernal pool tadpole shrimp.

13 ii. The EIR failed to adequately assess and mitigate the Project's
14 impacts to western spadefoot toad ("WESP"), a species of special concern.

15 iii. The EIR failed to account for the need for habitat connectivity by
16 the WESP and other special-status species and fails to assess the impact from the edge effects of
17 the Project.

18 iv. Mitigation Measure BIO-1 lacks the specificity and performance
19 standards regarding specific acreage requirement. The mitigation measures' standard is so
20 vague as to be meaningless. Mitigation Measure BIO-1's requirement that the developer shall
21 avoid or minimize impacts to the greatest extent feasible does not ensure that the significant
22 impact is avoided or reduced to less than significant.

23 v. Mitigation Measure BIO-1 constitutes deferred mitigation as it
24 based upon an unformulated plan for the developer to prepare a "Habitat Mitigation and
25 Monitoring Plan" at some point in the future.

26 vi. The EIR failed to adequately assess and mitigate the Project's
27 direct, indirect, and cumulative impacts on bird species, particularly in light of the already-
28 declining populations of many bird species.

1 vii. The EIR failed to adequately assess and mitigate the Project's
2 direct, indirect and cumulative impacts on special status species that rely upon Butte Creek
3 including the Chinook salmon.

4 **c. Greenhouse Gas Emissions:** The EIR failed to adequately disclose,
5 analyze and/or mitigate the impacts relating to greenhouse gas emissions.

6 i. The EIR failed to analyze GHG impacts resulting from construction
7 activities and as a result failed to determine if construction activities might result in a
8 significant GHG impact or if that impact can be mitigated.

9 ii. The EIR's Threshold of Significance for GHG is inconsistent with
10 the City's Climate Action Plan. The EIR relies upon the targets set forth in the CAP that are to
11 be met in 2030, even though full buildout of the Project is not anticipated until 2045. This
12 conflicts with the CAP as the City has committed to net zero GHG emissions by 2045. The EIR
13 fails to adequately disclose or mitigate inconsistencies with applicable land use and climate
14 policies, including the CAP.

15 iii. The EIR failed to mitigate significant impacts from mobile sources
16 of GHG emission. While the EIR attempts to mitigate GHG emissions from mobile sources on
17 trips within the development, it fails to include feasible mitigation measures to reduce the
18 impact of trips out of the development, which constitute the more significant source of vehicle
19 miles travelled.

20 **d. Public Safety.** The EIR failed to adequately disclose, analyze and/or
21 mitigate the impacts relating to emergency evacuation.

22 i. The EIR failed to address the issue of wildfire evacuation in any
23 detail. The EIR failed to calculate, disclose or discuss how adding a population of 5,654
24 residents, plus additional people including visitors and employees in the commercial area will
25 affect evacuation times and effectiveness for existing residents in the vicinity of the Project site.

26 ii. The EIR's evacuation analysis lacks a threshold of significance for
27 evacuation times. Moreover, the EIR failed to provide estimate for evacuation times nor any
28 evidentiary basis for the determination that the Project would not impair evacuation times.

1 **e. Water Resources.** The EIR failed to adequately disclose, analyze and/or
2 mitigate the impacts relating to water resources.

3 i. The EIR failed to adequately assess the impacts of climate change
4 on the Project's water supply and demand. Although CEQA requires that an EIR disclose a
5 project's long-term future water supply, the EIR failed to adequately consider impacts of
6 climate change on the availability of increasingly scarce water resources in the western United
7 States during the Project's lifespan.

8 ii. Substantial evidence does not support the EIR's determination that
9 the increasing demand by 7% on a basin in overdraft is consistent with sustainable management
10 of the groundwater basin. The Project will result in groundwater decreases of approximately 1
11 foot per year which does not constitute sustainable groundwater management as required by the
12 threshold of significance.

13 iii. The EIR failed to adequately discuss the Project's cumulative
14 impacts and substantial evidence does not support the EIR's determination that the Project will
15 not result in cumulative impacts to groundwater supplies.

16 iv. The EIR failed to adequately assess or mitigate the Project's
17 impacts on the regional aquifer and groundwater supplies, and the potential for contamination
18 of the aquifer resulting from the Project.

19 v. The EIR failed to adequately assess or mitigate the Project's
20 impacts on wastewater systems.

21 **f. Wildfire.** The EIR fails to adequately disclose, analyze and/or mitigate the
22 Project's significant impacts relating to wildfire.

23 i. The EIR failed to adequately describe the existing wildfire
24 conditions on the Project site. The EIR is devoid of detail regarding estimates for fire spread
25 rate, fire direction flame length and ember spotting distance.

26 ii. The EIR failed to provide the required evidentiary support for
27 concluding that the Project would not expose people or structures to a significant loss, injury, or
28 death from wildland fires.

1 iii. The EIR failed to demonstrate that Mitigation Measure WFIRE-2
2 will reduce the risk of Wildfire to less than significant. The EIR lacks any project-specific
3 analysis of the potential impacts and the effect that regulatory compliance could have on those
4 impacts. As the EIR fails to disclose the specifics of the Project's impacts in the first instance,
5 the EIR lacks a basis to conclude that these regulatory programs in and of themselves will
6 reduce the environmental impacts of this project to less-than-significant levels. The EIR
7 contains no modeling to quantify the fire risk for fires that start in, near and far from the project
8 site, as well as extreme weather conditions that exacerbate fire spread. Accordingly, the EIR's
9 conclusion that wildfire impacts will be mitigated to less-than-significant levels is unsupported.

10 iv. The EIR failed to provide thresholds of significance for evacuation
11 times. With identifying evacuation times and setting a threshold for evacuation times it cannot
12 be determined whether the Project will significantly impact evacuation times.

13 v. The EIR failed to adequately evaluate the Project' cumulative
14 wildfire impacts. The EIR dismisses cumulative wildfire impacts with minimal to no analysis.

15 **g. Environmental Setting.** The EIR failed to comply with CEQA's
16 requirements to provide an adequate and accurate description of the environmental setting of
17 the Project area. (CEQA Guidelines § 15125.) The EIR's description of the environmental
18 setting is inadequate because, but not limited to, its failure to establish that protocol-level
19 surveys were performed on all appropriate species and the results were disclosed for all
20 biological surveys conducted on the Project site.

21 **h. Air Quality.** The EIR failed to adequately disclose, analyze and/or
22 mitigate the Project's significant and cumulative impacts to air quality. The EIR's analysis of
23 air quality impacts is inadequate because, but not limited to, its failure to: disclose or analyze
24 the impacts of the Project on sensitive populations and adopt all feasible mitigation measures
25 and consider alternatives that would reduce impacts.

26 **i. Cumulative Impacts.** The EIR failed to adequately disclose, analyze, or
27 mitigate the Project's significant cumulative impacts. The EIR failed to consider the full scope
28 of recently-approved or pending development projects within the City and neighboring

1 jurisdictions such as the Stonegate Project that would together create significant environmental
2 impacts. By developing sprawling residential developments far from public transit and job
3 centers, all of these cumulative projects also contribute significantly to transportation-related
4 energy consumption.

5 47. Respondents' Findings of Fact and Statement of Overriding Considerations violate
6 the requirements of the CEQA Guidelines. The Findings fail to identify the changes or
7 alterations that are required to avoid or substantially lessen the project's significant
8 environmental effects (CEQA Guidelines § 15091(a)(1); the Findings and Statement of
9 Overriding Considerations are not supported by substantial evidence. (CEQA Guidelines, §
10 15091(b).)

11 a. The Findings with respect to Impacts 4.1-2 and 4.1-4 fail to provide the
12 rationale for the findings or state why specific economic, social, legal, technological, or other
13 considerations make infeasible the mitigation measures or project alternatives identified in the
14 EIR.

15 b. The findings for Impacts 4.7-1 and 4.7--2 regarding greenhouse gas
16 emissions state that incorporation of Mitigation Measures GHG-1 and GHG-2 into the VESP
17 will ensure that these impacts are minimized to the extent feasible. The Findings fail to provide
18 a rationale for the findings or state why specific economic, social, legal, technological, or other
19 considerations make infeasible the mitigation measures or project alternatives identified in the
20 EIR.

21 48. Where mitigation measures and alternatives to a project are not adopted, the
22 CEQA findings must identify specific economic, legal, social and technological and other
23 considerations that make infeasible the adoption of mitigation measures or alternatives. All
24 CEQA findings must be supported by substantial evidence in the record and must disclose the
25 analytical route by which approval of the project is justified. The findings regarding the
26 impacts, mitigation measures, and alternatives relied upon by Respondents' approval of the
27 Project are not supported by substantial evidence in the record, and the links between evidence
28 and conclusions are not satisfactorily provided.

49. Based upon each of the foregoing reasons, the EIR is legally defective under CEQA. Respondents prejudicially abused their discretion in violation of CEQA in approving the Project. As such, the Court should issue a writ of mandate directing Respondents to set aside the certification of the EIR and approval of the Project.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray for judgment as follows:

1. That this Court issue a peremptory writ of mandate ordering Respondents to:
 - a. Vacate and set aside the following approvals:
 - i. Resolution of the City Council of the City of Chico Certifying the Adequacy of the Environmental Impact Report for the Valley's Edge Specific Plan; on the grounds that it violates the California Environmental Quality Act, Public Resources Code § 21000 *et seq.*;
 - ii. Resolution of the City Council of the City of Chico: 1) Adopting Findings Regarding Environmental Effects, 2) Adopting a Statement of Overriding Considerations, and 3) Adopting a Mitigation Monitoring and Reporting Program for the Valley's Edge Specific Plan;
 - iii. Resolution of the City Council of the City of Chico Approving General Plan Amendment 22-03;
 - iv. Ordinance of the City Council of the City of Chico Amending the Prezoning of the Property Within the Valley's Edge Specific Plan Area;
 - v. Ordinance of the City Council of the City of Chico Amending Title 19 of the Chico Municipal Code to Add the Valley's Edge Specific Plan Zoning Overlay District;
 - vi. Resolution of the City Council of the City of Chico Adopting the Valley's Edge Specific Plan;
 - vii. Ordinance of the City Council of the City of Chico Approving the Development Agreement Between the City of Chico and Chico Land Investments, LLC;
 - b. prepare, circulate and consider a new legally adequate EIR for the Project;

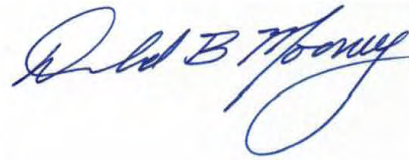
1 c. suspend all activity that could result in any change or alteration to the
2 physical environment in the Project site until Respondents have taken such actions as may be
3 necessary to bring their determination, findings or decision regarding the Project into
4 compliance with CEQA;

- 5 2. For Petitioners' costs associated with this action;
6 3. For an award of reasonable attorneys' fees pursuant to Code of Civil Procedure §
7 1021.5; and
8 4. For such other and further relief as the Court may deem just and proper.
9
10

11 Dated: February 1, 2023

Respectfully submitted,

12 LAW OFFICES OF DONALD B. MOONEY

13 
14

15 By _____
16 Donald B. Mooney
17 Attorney for Petitioner Sierra Club

18 Dated: February 1, 2023

Respectfully submitted,

20 CENTER FOR BIOLOGICAL DIVERSITY

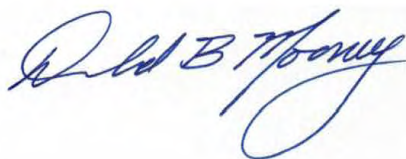
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23 By _____
24 John P. Rose
25 Attorney for Petitioners Center for Biological
26 Diversity and AquAlliance
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VERIFICATION

I am the attorney for Petitioner Sierra Club. Petitioner Sierra Club is located outside the County of Yolo, State of California, where I have my office. For that reason, I make this verification for and on Petitioner Sierra Club's behalf pursuant to California Code of Civil Procedure section 446. I have read the Verified Petition for Writ of Mandate and know its contents. The matters stated in it are true and correct based on my knowledge, except as to the matters that are stated therein on information and belief and as to those matters, I believe them to be true.

I declare under penalty of perjury that the above is true and correct. Executed this 1st day of February, 2023, at Davis, California.



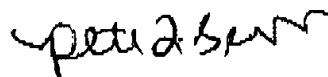
Donald B. Mooney

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VERIFICATION

I am the Director of Programs for Petitioner Center for Biological Diversity. I am authorized to make this verification for and on behalf of Petitioner Center for Biological Diversity and I make this verification for that reason. I have read the foregoing Verified Petition for Writ of Mandate and know its contents. I am informed and believe, and on that ground allege, that the matters stated in the Verified Petition for Writ of Mandate are true.

I declare under penalty of perjury that the above is true and correct. Executed this 1st day of February, 2023, at Shelter Cove, California.



Peter Galvin

VERIFICATION

I am the Executive Director for Petitioner AquAlliance. I am authorized to make this verification for and on behalf of AquAlliance and I make this verification for that reason. I have read the Verified Petition for Writ of Mandate and know its contents. The matters stated in it are true and correct based on my knowledge, except as to the matters that are stated therein on information and belief and as to those matters, I believe them to be true.

I declare under penalty of perjury that the above is true and correct. Executed this 1st day of February, 2023, at Chico, California.



Barbara Vlamis

EXHIBIT A

EXHIBIT A

LAW OFFICE OF DONALD B. MOONEY

417 Mace Boulevard, Suite J-334

Davis, CA 95618

530-758-2377

dbmooney@dcn.org

January 31, 2023

***VIA ELECTRONIC MAIL
AND FACSIMILE (530-895-4825)***

Mark Sorensen, City Manager
City of Chico
411 Main Street
Chico, CA 95928
CMWeb@chicoca.gov

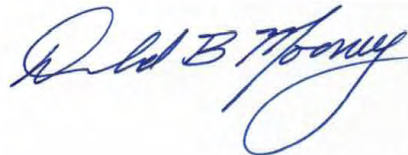
Deborah R. Presson
City Clerk
411 Main Street
Chico, CA 95928
debbie.presson@chicoca.gov

Re: Notice of Intent to File CEQA Petition

Dear Mr. Sorenson & Ms. Presson:

Please take notice that under Public Resources Code section 21167.5, that Petitioners Sierra Club, Center for Biological Diversity and AquAlliance intend to file a Petition for Writ of Mandate in Butte County Superior Court under the provisions of the California Environmental Quality Act, Public Resources Code section 21000 *et seq.*, against the City of Chico and the City Council of the City of Chico. The Petition for Writ of Mandate will challenge the City's certification of the Final Environmental Impact Report for the Valley's Edge Specific Plan and the City's approval of the Valley's Edge Specific Plan.

Very truly yours,



Donald B. Mooney
Attorney for Sierra Club



John P. Rose
Attorney for Center for Biological
Diversity and AquAlliance

PROOF OF SERVICE

I am employed in the County of Yolo; my business address is 417 Mace Boulevard, Suite J-334, Davis, California; I am over the age of 18 years and not a party to the foregoing action. On January 31, 2023, I served a true and correct copy of as follows:

Notice of Intent to File CEQA Petition – Public Resources Code section 21167.5

___ (by mail) on all parties in said action listed below, in accordance with Code of Civil Procedure §1013a(3), by placing a true copy thereof enclosed in a sealed envelope in a United States mailbox in Davis, California.

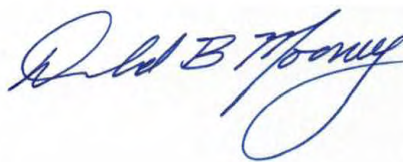
 X (by electronic mail) to the person at the address set forth below:

 X (by facsimile transmission) and to the person at the address and phone number set forth below:

Mark Sorensen, City Manager
City of Chico
411 Main Street
Chico, CA 95928
CMWeb@chicoca.gov
530-895-4825

Deborah R. Presson
City Clerk
411 Main Street
Chico, CA 95928
debbie.presson@chicoca.gov
530-895-4825

I declare under penalty of perjury that the foregoing is true and correct. Executed January 31, 2023, at Davis, California.



Donald B. Mooney