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7 Attorney for Petitioners

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF MENDOCINO**

10
11
12 WILLITS ENVIRONMENTAL CENTER,
13 KEEP THE CODE, and DOES 1 through 5,
14 inclusive,

15 Petitioners,

16 v.

17 MENDOCINO COUNTY, and DOES 6 through
18 10, inclusive,

19 Respondent.

20 MENDOCINO FOREST PRODUCTS
21 COMPANY, LLC; RAU & ASSOCIATES, and
22 DOES 11 through 15, inclusive,

23 Real Parties in Interest.

CASE NUMBER _____

**PETITION FOR WRIT
OF MANDATE**

[CEQA]

1 Petitioners allege:

2 I. INTRODUCTION

3 1. Petitioners Willits Environmental Center (WEC) and Keep the Code
4 (KTC) bring this mandamus action challenging the County of Mendocino's
5 approvals of a grading permit (project) in violation of the California Environmental
6 Quality Act (CEQA) and the Surface Mining and Reclamation Act (SMARA).
7

8 The County abused its discretion and failed to act in the manner required by
9 law in approving the project without CEQA review and in violation of SMARA.

10 Petitioners request a peremptory writ of mandate in the first instance
11 ordering the County to set aside its project approvals and to comply with all
12 provisions of CEQA, SMARA, and other applicable laws prior to further
13 consideration of the project.
14

15 II. JURISDICTION AND VENUE

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17 2. This Court has jurisdiction pursuant to, among other laws, sections 2716,
18 21168 and/or 21168.5 of the Public Resources Code and sections 1084, 1085,
19 and/or 1094.5 of the Code of Civil Procedure. All parties and the project site are
20 located in the County of Mendocino.
21

22 III. PARTIES

23 3. Petitioner WEC is a nonprofit corporation which purposes include
24 protecting and preserving the environmental resources of the County of
25 Mendocino. WEC is composed of persons whose interests will be severely injured
26 if the approval of the project is not set aside pending full compliance with CEQA,
27 SMARA, and all other applicable laws. The members of WEC utilize and enjoy the
28

1 the County of Mendocino's and the State of California's environment and natural
2 resources, and bring this petition on behalf of all others similarly situated who are
3 too numerous to be named and brought before this Court as petitioners. As an
4 organization composed of residents and property owners within the County of
5 Mendocino, WEC is within the class of persons beneficially interested in and
6 aggrieved by the acts of respondent as alleged below.
7

8
9 4. Petitioner KTC is a section 501(c)(3) public benefit non-profit corporation
10 whose purposes include but are not limited to protecting and preserving the
11 environment of Mendocino County from harmful development. KTC is composed
12 of persons whose interests will be severely injured if the approval of the project is
13 not set aside pending full compliance with CESA and all other applicable laws.
14 The members of KTC enjoy Mendocino County's and the State of California's
15 environment and natural resources and bring this petition on behalf of all others
16 similarly situated who are too numerous to be named and brought before this
17 Court as petitioners. As an organization composed of residents and property
18 owners within Mendocino County, KTC is within the class of persons beneficially
19 interested in and aggrieved by the acts of respondent as alleged below. KTC
20 participated in the administrative processes relative to this project and objected to
21 the project and its environmental review.
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25 5. Respondent County of Mendocino is a county duly organized under the
26 laws of the State of California.
27
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1 12. The County appears to mistakenly rely on section 2714 subdivision (b)
2 of the Public Resources Code to exempt the project from SMARA, and also claims
3 the project is for improvement of property.
4

5 13. This petition is timely filed on August 23, 2013. Petitioners complied
6 with section 21167.5 of the Public Resources Code by serving a Notice of
7 Commencement of Action on the County and with section 21167.7 of the Public
8 Resources Code by serving a copy of this petition on the Office of the Attorney
9 General of the State of California.
10

11 14. Petitioners have no plain, speedy, and adequate remedy in the ordinary
12 course of law. If the project remains approved, construction may proceed with
13 immediate, severe, and irreparable harm to the environment and to Petitioners,
14 the County and State of California residents due to environmental degradation and
15 the failure of the County to follow the law in its approval process. The County has
16 the capacity to correct its violations of law but has failed and refused to do so.
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19 **V. CAUSE OF ACTION FOR VIOLATIONS OF THE**
20 **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

21 15. Petitioners fully incorporate herein by reference paragraphs 8 through
22 14, above.

23 14. The County abused its discretion and failed to act in the manner
24 required by law by approving the project without conducting any environmental
25 review under CEQA.
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1 **VI. CAUSE OF ACTION FOR VIOLATIONS OF THE SMARA**

2 15. Petitioners fully incorporate herein by reference paragraphs 15 and 16,
3 above.

4
5 17. The County abused its discretion and failed to act in the manner
6 required by law by approving the project in violation of SMARA by, among other
7 things, relying on section 2714 subdivision (b) of the Public Resources Code to
8 exempt the project from SMARA and, by, among other things, failing to analyze
9 the environmental effects of the project and issue a Reclamation Plan.

10
11 WHEREFORE, Petitioners pray:

12 1. That the Court issue a Peremptory Writ of Mandate, ordering the County
13 to set aside and void its approvals of the project and to comply with all provisions
14 of CEQA, SMARA, and other applicable laws prior to further consideration of the
15 project.

16
17 2. That the Court issue an administrative stay order, temporary restraining
18 order, and/or preliminary injunction enjoining the County and/or real parties in
19 interest their subcontractors, agents, employees, heirs, assigns, or
20 representatives from engaging in any physical or irreversible actions or decisions
21 with respect to the project in furtherance of the project pending full compliance
22 with CEQA, SMARA, and other applicable laws.

23
24 3. That the Court issue a permanent stay against the County and/or real
25 parties in interest their subcontractors, agents, employees, heirs, assigns, or
26 representatives from engaging in any activity connected with the project unless
27
28

1 and until this Court finds that project approvals are in full compliance with CEQA,
2 SMARA, and other applicable laws.

3 4. For costs of suit and attorneys' fees herein; and

5 5. For other and further relief as the Court may deem proper.

6 Dated: August 23, 2013

Law Office of Rose M. Zoia

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9 _____
Rose M. Zoia
Attorney for Petitioners

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11 **VERIFICATION**

12 I am counsel for Petitioners who are located outside of the County of
13 Sonoma, California, where I have my office. For that reason, I make this
14 verification for and on behalf of Petitioners pursuant to California Code of Civil
15 Procedure section 446. I have read the Petition for Writ of Mandate and know its
16 contents. The matters stated in it are true and correct based on my knowledge,
17 except as to the matters which are stated therein on information and belief and as
18 to those matters, I believe them to be true.

21 I declare under penalty of perjury that the above is true and correct.

22 Executed this 23rd day of August 2013, at Santa Rosa, California.

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25 
26 _____
Rose M. Zoia

PROOF OF SERVICE

I am a citizen of the United States and a resident of the County of Sonoma. I am over the age of eighteen years and not a party to the within entitled action. My business address is 50 Old Courthouse Square, Suite 401, Santa Rosa, California 95404.

On August 23, 2013, I served one true copy of

PETITION FOR WRIT OF MANDATE

by mailing via USPS, first-class, postage pre-paid, to the persons or entities and addresses listed below:

Clerk of the Board of Supervisors
Mendocino County
501 Low Gap Road, Room 1010
Ukiah, CA 95482
Respondent

County Counsel
County of Mendocino
Administration Center
501 Low Gap Road, Rm. 1030
Ukiah, CA 95482
Counsel for Respondent

Mendocino Forest Products Company, LLC
PO Box 996
Ukiah CA 95482
Real Party in Interest

Rau & Associates
100 N. Pine Street
Ukiah CA 95482
Real Party in Interest

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

Executed on August 23, 2013, at Santa Rosa, California.



Rose M. Zoia