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19 CITY OF MODESTO

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20 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
21 COUNTY OF SACRAMENTO

22 CITY OF MODESTO,

23 Petitioners,

24 v.

25 CALIFORNIA STATE WATER
26 RESOURCES CONTROL BOARD and
27 DOES 1 TO 100, INCLUSIVE,

28 Respondents.

Case No. _____

PETITION FOR WRIT OF MANDATE

(Code Civ. Proc., §§ 526, 1085, 1094.5;
Pub. Res. Code, §§ 21167, 21168 and
21168.5.)

[Deemed verified pursuant to Code Civ. Proc.,
§ 446.]

1 Petitioner City of Modesto alleges as follows:

2 1. This petition challenges the December 12, 2018 decision of respondent
3 California State Water Resources Control Board ("State Water Board") to adopt Resolution No.
4 2018-0059, by which the State Water Board adopted certain amendments ("Plan
5 Amendments") to the 2006 Water Quality Control Plan ("Bay-Delta Plan") for the San
6 Francisco Bay/Sacramento-San Joaquin Delta Estuary and to adopt the related Substitute
7 Environmental Document ("SED") for the Plan Amendments.

8 2. Petitioner City of Modesto is the 18th largest City in the State of California and
9 is home to over 210,000 people. Due to its location on the floor of the San Joaquin Valley, the
10 City has only two sources of water supply physically available to serve its customers: surface
11 water from the Tuolumne River, which runs through the City, and groundwater. If
12 implemented, the Plan Amendments will severely reduce the amount of Tuolumne River
13 surface water available for people, and they will significantly increase the strain on the latter,
14 which will already be reduced due to the implementation of the Sustainable Groundwater
15 Management Act and anticipated future drought conditions.

16 3. The Plan Amendments are adopting the Bay-Delta Plan, which the State Water
17 Board approved in 2006, pursuant to its authority under the Porter-Cologne Water Quality
18 Control Act (Water Code sections 13000, et seq.). The Bay-Delta Plan accomplishes three
19 purposes: it (a) identifies and designates the beneficial uses of water in the Bay-Delta,
20 (b) establishes water quality objectives to protect the designated beneficial uses, and
21 (c) institutes a "program of implementation" that is intended to achieve the specified water
22 quality objectives. (Water Code, §§ 13050, subd. (j); 13170.)

23 4. The Bay-Delta Plan, and the water quality objectives it established, apply to the
24 waters of the San Francisco Bay system and the legal Sacramento-San Joaquin Delta.
25 Likewise, all of the beneficial uses designated within the Bay-Delta Plan, which serve as the
26 basis for establishing the appropriate water quality objectives for the Bay-Delta, relate to uses
27 of water within the "legal Delta." The scope of the Delta is legally defined in Water Code
28 section 12220, and these waters are known as the "legal Delta." A true and correct copy of a

1 map produced by the Department of Water Resources depicting the legal Delta is attached as
2 Exhibit A.

3 5. The waters of the Merced, Tuolumne, and Stanislaus Rivers upstream of the
4 confluence of the Stanislaus with the San Joaquin River are not within the legal Delta. To the
5 extent the Bay-Delta Plan protects municipal and industrial uses of water, those uses are ones
6 that occur within the legal Delta by users such as the City of Antioch.

7 6. In 2009, the State Water Board determined it would update the Bay-Delta Plan
8 for different parts of the State in separate phases. The first phase included three of the
9 tributaries to the San Joaquin River, the Stanislaus, Tuolumne, and Merced Rivers (collectively,
10 the "Three Tributaries"). Other tributaries and an upstream reach of the San Joaquin River
11 itself were excluded.

12 7. The Bay-Delta Plan did not establish the water quality protections that apply to
13 the waters of the Three Tributaries, since these reaches of each of these streams are upstream,
14 and outside, of the legal Delta. Rather, these reaches of these streams are subject to the water
15 quality protections established in the Water Quality Control Plan for the California Regional
16 Water Quality Control Board, Central Valley Region (5th ed., May 2018) ("Central Valley
17 Basin Plan") adopted by the Central Valley Regional Water Quality Control Board and
18 approved by the State Water Board last year. The beneficial uses and the water quality
19 objectives applicable to these reaches of these streams are set forth in the Central Valley Basin
20 Plan.

21 8. Even though these reaches of Three Tributaries are outside the geographic scope
22 of the 2006 Bay-Delta Plan, the Plan Amendments seek to impose minimum flow requirements
23 within the Three Tributaries upstream of the Delta. Specifically, the Plan Amendments require
24 certain – but not all – water users in the Three Tributaries, in each month from February
25 through June, to release sufficient water so that an average of 40% of the "unimpaired flow" of
26 each river will reach the San Joaquin River at Vernalis. To meet this requirement, the targeted
27 water uses may release between 30% and 50% – that is, one half – of the unimpaired flow of
28 the stream, as long as the total amount released, when averaged, is equivalent to 40%.

1 9. For the State Water Board to impose minimum streamflow requirements as a
2 water quality objective is unprecedented, and the magnitude of water reallocated by these
3 streamflow requirements on the Three Tributaries is so extensive that it will cause severe water
4 shortages for the affected water users, including the City and its customers.

5 10. The City of Modesto currently receives approximately half of its annual
6 drinking water supply from Tuolumne River surface water through a contract it has with the
7 Modesto Irrigation District. The City uses this Tuolumne River water to diversify its water
8 portfolio and to help protect local groundwater supplies.

9 11. The City does not have any water right to divert water from the Tuolumne
10 River. Before it entered into its water supply contract with Modesto Irrigation District for the
11 delivery of Tuolumne River water, the City's water supplies were entirely dependent on
12 groundwater, and the groundwater basin was being overdrafted. As a result of the City
13 diversifying its water supplies by obtaining water from the Tuolumne River, the groundwater
14 levels in the City of Modesto's contiguous system have been stable since 1995.

15 12. The City is currently investing over \$300 million in water infrastructure with the
16 intent of securing long-term water supply reliability for residents, business, and major industry.
17 These investments were based on extensive analysis and planning that included anticipated
18 future use of current surface water supplies. However, if the Plan Amendments are
19 implemented, surface water deliveries will be cut by an average of 38% in critically dry years.
20 These severe reductions in surface water deliveries threaten all of the City's long-term water
21 planning efforts and investments and will have far-reaching impacts on the City, the health and
22 well-being of its residents and customers, the regional economy, and the environment.

23 13. The stated purpose of the new minimum flow requirements is to facilitate the
24 migration of Central Valley fall-run Chinook salmon through the Bay-Delta. Central Valley
25 fall-run Chinook salmon spawn on each of the Three Tributaries.

26 14. The Central Valley fall-run Chinook salmon is a cold-water fish species, and
27 temperatures that are too warm can be lethal to this species. In other words, when stream
28 temperatures are too high, these fish and their eggs can be damaged or killed.

1 15. Each of the Three Tributaries has at least one dam that was constructed for the
2 purposes of storing fall, winter, and spring storms and snowmelt for beneficial use at other
3 times of the year. These dams have been in existence for decades. Each of the reservoirs
4 created by these dams develops a "cold water pool" of cooler water that can be released
5 downstream, but the volume of these cold water pools is limited by the size of the reservoir and
6 the water and weather conditions each year. Releases of warm water when cold-water species
7 are inhabiting the streams can cause injury to or death of the fish. To avoid releases of water at
8 temperatures that are harmful to cold-water fish downstream, the cold-water pools in the
9 reservoirs, and releases from the reservoirs, must be carefully timed and managed.

10 16. Water operators on the Three Tributaries have been striking this balance in their
11 operations for decades. To date, the Central Valley fall-run Chinook salmon has not been listed
12 as threatened or endangered under either the California or Federal Endangered Species Act.

13 17. When establishing a new or revised water quality objective for a stream, Water
14 Code section 13241 requires the State Water Board to strike a similar balance. Under this
15 statutory mandate, the board must consider past, present, and probable future beneficial uses of
16 the water; conditions that could reasonably be achieved through the coordinated control of all
17 factors which affect water quality in the area; economic considerations; and the need for
18 developing housing within the region, among other factors.

19 18. The State Water Board never considered the Plan Amendments in the proper
20 context of the beneficial uses for the Three Tributaries as designated in the Central Valley
21 Basin Plan. The State Water Board's Resolution approving the Plan Amendments conclusorily
22 states that the State Water Board has considered the factors required by Water Code section
23 13241 and refers to the Final SED for the supporting evidence. The State Water Board's
24 process is detailed in Master Response 1.2 of the SED – but nowhere in this text is the Central
25 Valley Basin Plan even mentioned. Thus, the record contains no evidence that the State Water
26 Board considered the designated beneficial uses of the Three Tributaries, as established in the
27 Central Valley Basin Plan, before adopting the Plan Amendments.

28

1 19. Although the State Water Board did prepare an SED, this document fails to
2 evaluate fully the environmental impacts of the Plan Amendments. The SED contains faulty
3 assumptions about the City's ability to continue receiving surface water, the City's use of
4 groundwater, and the City's current and future water demands. These faulty assumptions infect
5 the entirety of the SED's analysis. As a result of these and other errors, the SED fails to
6 adequately analyze the direct, indirect, and cumulative impacts of the Plan Amendments on the
7 City of Modesto.

8 20. The State Water Board conducted an administrative process to consider the Plan
9 Amendments, and the City participated at every opportunity it was afforded. The City has
10 repeatedly brought its concerns about the defects in the Plan Amendments and the SED to the
11 State Water Board's attention, but the State Water Board ignored the substance of the City's
12 concerns and proceeded to adopt these documents.

13 21. In adopting the Plan Amendments, and throughout the administrative process,
14 the State Water Board failed to comply with its obligations under CEQA and under the Porter-
15 Cologne Water Quality Control Act (Water Code sections 13000, et seq.).

16 22. The Plan Amendments violate the Porter-Cologne Water Quality Control Act
17 because the State Water Board adopted them without considering the factors it was required to
18 consider, including the beneficial uses of the waters of the Three Tributaries, as designated in
19 the Central Valley Basin Plan, economic and housing considerations, and the conflict between
20 the proposed unimpaired flow objectives for the Three Tributaries and their resulting impacts
21 on the cold water pool available for releases to sustain downstream cold-water fish.

22 23. The SED also fails to comply with CEQA because it: (a) fails to analyze the
23 Plan Amendments' impacts on the City's surface water supplies, (b) fails to analyze the Plan
24 Amendments' impacts on the City's groundwater supplies, (c) fails to analyze the Plan
25 Amendment's incremental contribution to cumulative impacts to water supplies, (d) fails to
26 analyze urban blight that is a reasonably foreseeable result of the water supply reductions the
27 Plan Amendments will cause, and (e) fails to provide good faith, reasoned responses to the
28 significant environmental issues raised in the City's comments. The State Water Board also

1 violated CEQA by refusing to accept comments on all aspects of the CEQA approvals, which
2 prematurely and artificially closed the record of proceedings on some issues.

3 24. Because of these fatal flaws, the State Water Board prejudicially abused its
4 discretion and violated the Porter-Cologne Water Quality Control Act and CEQA when it
5 approved the SED and the Plan Amendments. Petitioner therefore asks this Court to: (a) issue
6 a peremptory writ of mandate directing the State Water Board to set aside its approval of the
7 SED and the Plan Amendments, and (b) provide related declaratory and injunctive relief.

8 **PARTIES**

9 25. Petitioner City of Modesto is a municipal corporation formed and existing under
10 the laws of the State of California.

11 26. Respondent California State Water Resources Control Board ("State Water
12 Board") is a state agency existing under the laws of the State of California. The State Water
13 Board is the lead agency for the Plan Amendments with responsibility for complying with the
14 California Environmental Quality Act ("CEQA"). The State Water Board's adoption of Water
15 Quality Control Plan amendments such as the Plan Amendments has been qualified as a
16 certified regulatory program under CEQA, and, as such, the Substitute Environmental
17 Document was exempt from certain designated CEQA requirements.

18 27. Does 1 to 100, inclusive, are also responsible, in whole or in part, for the invalid
19 and unlawful approval of the Substitute Environmental Document and the Plan Amendments,
20 though the exact nature of their responsibility and actions is presently unknown to Petitioner.
21 The true names or capacities of Does 1 to 100, inclusive, are unknown to Petitioners, who
22 therefore sues these real parties in interest by fictitious names. When the true identities and
23 capacities of these Respondents have been determined, Petitioner will, with leave of the Court
24 if necessary, amend this Petition to insert such identities and capacities.

25 **JURISDICTION AND VENUE**

26 28. This Court has jurisdiction over this action, which is brought pursuant to Code
27 of Civil Procedure sections 526, 1085 and 1094.5, and Public Resources Code sections 21167,
28 21168 and 21168.5.

1 29. Venue in Sacramento County is proper under Code of Civil Procedure section
2 401, subdivision 1, which provides that actions against the State or an agency thereof may be
3 commenced and tried in the County of Sacramento, and under Code of Civil Procedure section
4 395, subdivision (a), because respondent State Water Board is domiciled in Sacramento
5 County.

6 30. Consistent with Public Resources Code Section 21167.5, on January 9, 2019,
7 Petitioner served, by mail, the State Water Board with a notice informing it of Petitioner's
8 intent to file this petition for writ of mandate challenging the State Water Board's December 12,
9 2018 decisions. A copy of Petitioner's notice and associated proof of service is attached as
10 Exhibit B and incorporated by reference.

11 31. Pursuant to Code of Civil Procedure section 388, Petitioners/Plaintiffs are
12 serving the California Attorney General with a copy of this Petition.

13 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

14 32. Petitioner has performed all conditions precedent to filing the instant action. To
15 the extent Petitioner was required to exhaust its administrative remedies, it has done so by
16 submitting comments on the SED whenever the State Water Board afforded it an opportunity to
17 do so. The State Water Board issued improper and misleading notices stating that it would not
18 accept comments on some aspects of the SED, such as the statement of overriding
19 considerations, and Plan Amendments. In doing so, the State Water Board frustrated
20 Petitioner's ability to provide comments. Had the notices not stated that the State Water Board
21 was refusing to accept comments, Petitioner would have provided comments and testimony in
22 opposition to those aspects of the SED and Plan Amendments. To the extent Petitioner did not
23 exhaust its administrative remedies prior to challenging those aspects of the approvals,
24 Petitioner is excused from doing so by the State Water Board's improper and premature closing
25 of the record in violation of CEQA.

26 **STANDING**

27 33. The City operates a municipal utility that manages water supply resources and
28 delivers water to its customers. As noted above, one of the City's two sources of water supply

1 is water diverted from the Tuolumne River and delivered to the City under its contract with
2 Modesto Irrigation District. As such, Petitioner has significant, beneficial interests in the
3 matters addressed by this Petition. The Plan Amendments analyzed in the SED, if
4 implemented, would significantly hinder Petitioner's ability to deliver safe, reliable water
5 supplies to the more than 200,000 people it serves and would cause direct, indirect and
6 cumulative environmental impacts in the City and its environs. Thus, the City has standing to
7 assert the claims raised in this Petition because its beneficial and environmental interests are
8 directly and adversely affected by the State Water Board's approval of the SED and Plan
9 Amendments.

10 **ATTORNEYS' FEES**

11 34. This action involves the enforcement of important rights affecting the public
12 interest. In pursuing it, Petitioner will confer a substantial benefit on the public, including all
13 persons who rely on resources affected by the SED and the Plan Amendments. Therefore,
14 when Petitioner prevails in this action, it will be entitled to an award of reasonable attorneys'
15 fees under Code of Civil procedure section 1021.5.

16 **INADEQUATE REMEDY AT LAW – STAY AND INJUNCTION**

17 35. Under Code of Civil Procedure sections 526, 1085 and 1094.5, and Public
18 Resources Code sections 21168 and 21168.5, the Court may stay or enjoin the operation of any
19 administrative decision or order involved in this proceeding.

20 36. Because the State Water Board has approved the Plan Amendments and
21 submitted them to the Office of Administrative Law, there is a real threat that the State Water
22 Board will proceed to implement the Plan Amendments despite the inadequate environmental
23 review of their impacts. Given the State Water Board's violations of CEQA in approving the
24 SED and the Plan Amendments, any action to implement the Plan Amendments is null and
25 void. Petitioners have no plain, speedy or adequate remedy at law for this irreparable harm.
26 Therefore, a stay or preliminary and permanent injunction should issue restraining the State
27 Water Board from taking any additional actions to implement the Plan Amendments until the
28 State Water Board has complied with CEQA.

1
2 **FIRST CAUSE OF ACTION**
3 **(Writ of Mandate – Violations of Porter-Cologne Water Quality Control Act)**

4 37. Petitioners re-allege and incorporate by reference paragraphs 1 through 30,
5 above.

6 38. When the State Water Board is setting water quality objectives, Water Code
7 section 13000 requires it to consider "all demands being made and to be made on those waters,"
8 and Water Code section 13241 compels it to weigh the following factors: (a) Past, present, and
9 probable future beneficial uses of water that would be subject to the objective,
10 (b) Environmental characteristics of the hydrographic unit under consideration, including the
11 quality of water available thereto, (c) Water quality conditions that could reasonably be
12 achieved through the coordinated control of all factors which affect water quality in the area,
13 (d) Economic considerations, (e) The need for developing housing within the region, and
14 (f) The need to develop and use recycled water.

15 39. The Central Valley Basin Plan establishes the designated beneficial uses of the
16 waters of the Three Tributaries.

17 40. When it adopted the Plan Amendments, the State Water Board imposed new
18 water quality objectives on the Three Tributaries outside the legal Delta. The Final SED
19 indicated that it was extending the scope of the Bay-Delta Plan to include the waters of the
20 Three Tributaries, but the SED ignored the designated beneficial uses of these waters. Thus,
21 the State Water Board violated Water Code sections 13000 and 13241 by failing to consider
22 "all demands being made and to be made on those waters" and the "past, present, and probable
23 future beneficial uses of water" that would be subject to the objective.

24 41. In adopting the Plan Amendments, the State Water Board also violated Water
25 Code section 13241 by failing to consider how the massive reallocation of surface water
26 imposed under the Plan Amendments would impact the local economy and the need for
27 developing housing within the region. Local governments are prohibited from approving
28 housing projects for 500 units or more unless there is an adequate, reliable water supply
available to serve the new housing. (See Water Code § 10910.) Although the City submitted

1 evidence that the Plan Amendments would significantly affect the local economy and would
2 threaten the City's ability to serve its existing customers and approve new housing
3 developments, the State Water Board dismissed those concerns without setting forth any
4 contrary evidence.

5 42. Finally, the State Water Board violated Water Code section 13241 by failing to
6 consider what water quality conditions "could reasonably be achieved through the coordinated
7 control of all factors which affect water quality in the area." The Plan Amendments require
8 releases in such massive volumes from February to June that they will eliminate much of the
9 cold-water pool in the reservoirs on the Three Tributaries. Thus, it will not be possible for the
10 water users to release water as required by the unimpaired flow regime established in the Plan
11 Amendments and have sufficient cold water available in storage in the reservoirs to make
12 releases at suitable temperatures to support Central Valley fall-run Chinook salmon during their
13 breeding season. The State Water Board made no attempt to reconcile the conflicts between
14 the Plan Amendments, the factors that limit the availability of cold water pool in the reservoirs,
15 how the Plan Amendments will interfere with the ability to develop and manage the cold water
16 pools, and their significant potential to cause temperature harm to the very fish species they are
17 intended to protect. Because the State Water Board did not consider these factors, its adoption
18 of the Plan Amendments violates the Porter-Cologne Water Quality Control Plan.

19
20 **SECOND CAUSE OF ACTION**
(Writ of Mandate – Violation of CEQA)

21 43. Petitioners re-allege and incorporate by reference paragraphs 1 through 42,
22 above.

23 44. The State Water Board's actions in approving the SED and the Plan
24 Amendments constitute a prejudicial abuse of discretion because the State Water Board failed
25 to proceed in the manner required by law under Public Resources Code section 21166 and the
26 California Code of Regulations, title 14, sections 15162 to 15164, and its decision is not
27 supported by substantial evidence. Specifically:

1 a. The SED fails to analyze the environmental impacts changes related to
2 the change in available water supplies to the City and other users that will result from the
3 implementation of the Plan Amendments. Specifically, the SED does not accurately model,
4 and therefore fails to quantify or analyze, the water supply impacts to the City of Modesto.
5 First, the model used in the SED erroneously assumes that the City will be able to receive the
6 same amount of surface water from the Tuolumne River even if the Plan Amendments are
7 implemented and the amount of Tuolumne River water available for diversion is reduced. As a
8 result, the model ignores the impact that the Plan Amendments will have on the City's
9 groundwater supplies. Second, the model used in the SED erroneously assumes that the City's
10 demand for surface water will remain at the 2009 baseline level throughout the time that the
11 Plan Amendments are in effect. There is no substantial evidence to support either one of these
12 assumptions. These faulty assumptions cause the modeling, and the SED which relied on the
13 modeling, to understate the water supply impacts of the Plan Amendments on the City's water
14 supply.

15 b. The SED also fails to analyze the foreseeable changes that the Plan
16 Amendments will cause in local groundwater conditions for the City and other users. The
17 groundwater modeling used in the SED falsely assumes that all future municipal demands can
18 be met with increased groundwater pumping and that the future municipal demands will not
19 exceed 2009 pumping levels. There is no substantial evidence to support either one of these
20 assumptions. The model also neglected to account for the City of Modesto's existing
21 groundwater use. The SED's groundwater modeling of the Turlock subbasin failed to even
22 identify the City of Modesto as one of the users of that groundwater, when publicly available
23 data confirm that the City withdraws about 5000 acre-feet per year from that subbasin.

24 c. The SED also fails to evaluate the Plan Amendments' cumulative
25 impacts on the City's groundwater supplies. Future conditions that will constrain groundwater
26 supplies include implementation of the Sustainable Groundwater Management Act, multi-year
27 droughts, and more stringent drinking water standards. All of these conditions are reasonably
28 foreseeable – particularly to the State Water Board, which is charged with implementing the

1 laws and standards and planning for droughts. The SED violates CEQA by failing to determine
2 whether: the effects of the Plan Amendments, in combination with these other foreseeable
3 conditions, would be cumulatively considerable; and if so, whether the incremental
4 contribution of the Plan Amendments is cumulatively considerable.

5 d. The SED further violates CEQA because it fails to analyze the physical
6 impacts – urban blight – that will directly or indirectly result from the forecasted economic or
7 social effects of the Plan Amendments. The SED does not identify any sources of replacement
8 water for the supplies that will be lost to the City, nor does the SED undertake any study of the
9 economic effects of the proposal on the City of Modesto's urban economy, even though the
10 City submitted evidence that approximately one out of every five jobs in the local economy
11 derives from agricultural production, which will experience a drastic hit due to the Plan
12 Amendments. Although the SED acknowledges that thousands of acres of land will be taken
13 out of production, resulting in the loss of thousands of jobs will be lost, the SED simply did not
14 evaluate whether these impacts would result in urban blight in the City. By dismissing these
15 reasonably foreseeable impacts without evaluating them, the State Water Board violated
16 CEQA.

17 e. The State Water Board also violated CEQA by failing to respond to the
18 significant environmental issues raised by the City. The SED's written responses to the City's
19 comments do not provide a good faith, reasoned analysis of the significant environmental
20 issues the City raised. Rather, the responses consist of conclusory statements unsupported by
21 factual information, in violation of CEQA.

22 f. Finally, the State Water Board also violated CEQA's procedural
23 requirements by issuing notices purporting to limit the scope of comments that could be made.
24 As a result of these notices, the State Water Board never took comments on some portions of
25 the CEQA documents, such as the statement of overriding considerations. The State Water
26 Board's certified regulatory exemption from CEQA does not allow it to refuse to accept
27 comments on portions of its CEQA documents. By artificially narrowing and prematurely
28

1 closing the administrative record on some CEQA issues, the State Water Board violated
2 CEQA.

3 45. The State Water Board therefore approved the SED and the Plan Amendments
4 without complying with all applicable requirements of CEQA. Consequently, the State Water
5 Board's approval of the SED and Plan Amendments was improper and must be set aside.

6 **PRAYER FOR RELIEF**

7 Petitioner prays for the following relief on all causes of action:

8 1. For a peremptory writ of mandate directing the State Water Board to vacate and
9 set aside its approval of the SED and the Plan Amendments.

10 2. For an order staying the effects of the State Water Board's approval of the SED
11 and the Plan Amendments.

12 3. For issuance of a temporary restraining order, and a preliminary and permanent
13 injunction, restraining and prohibiting the State Water Board from carrying out or engaging in
14 any action related to the Plan Amendments that could cause any change or alteration in the
15 physical environment until the State Water Board has complied with CEQA, the Porter-
16 Cologne Water Quality Control Act, and all other applicable laws.

17 4. For an order directing the State Water Board to pay Petitioner's reasonable costs
18 of suit.

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1 5. For an order directing the State Water Board to pay Petitioner's reasonable
2 attorneys' fees.

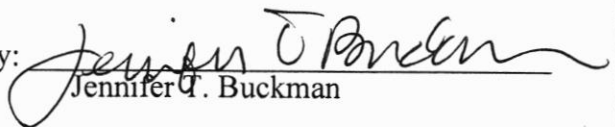
3 6. For such other relief as the Court deems just and proper.
4

5 Dated: January 10, 2019

Respectfully submitted,

6 BARTKIEWICZ, KRONICK & SHANAHAN
7 A Professional Corporation

8
9 By:


Jennifer T. Buckman

10 Attorneys for Petitioner
11 CITY OF MODESTO
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