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 STOP QIP TAX COALITION  
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10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 11 **IN AND FOR THE COUNTY OF SACRAMENTO**  
 12 **UNLIMITED JURISDICTION**

13 STOP QIP TAX COALITION,  
 14 Plaintiff/Petitioner,  
 15 v.  
 16 CALIFORNIA DEPARTMENT OF FOOD  
 AND AGRICULTURE, and Does 1 through  
 17 100, inclusive,  
 18 Defendants/Respondents.

Case No. \_\_\_\_\_

**VERIFIED PETITION FOR WRIT OF  
 MANDATE AND COMPLAINT FOR  
 DECLARATORY RELIEF AND/OR  
 OTHER EXTRAORDINARY RELIEF**  
  
**IMMEDIATE ACTION REQUESTED**  
**[Cal. Code Civ. Proc. §§ 526, 1085, 1094.5,  
 1102]**

19  
 20 COME NOW Plaintiff/Petitioner Stop QIP Dairy Tax Coalition ("Plaintiff/Petitioner"),  
 21 for its Complaint and Petition alleges as follows:

22 **I. INTRODUCTION**

23 1. This action challenges the Quota Implementation Program/Quota Administration  
 24 Program ("QIP"), a copy of which is attached hereto as Attachment A. The California Department  
 25 of Food and Agriculture ("CDFA") presently administers the QIP as a method of reallocating a  
 26 portion of the proceeds from the sale of milk among California Grade A dairy farmers.

27 2. The grounds for these challenges are that the QIP is an underground regulation and  
 28 is not enforceable by CDFAs as it is not law.



1 *Inc. v. Lyons*, 2003 WL 673075 (U.S.), 2 (U.S. Amicus Brief, 2003) (hereinafter “Solicitor  
2 General Brief”).

3 10. The historical justification for the government to regulate milk marketing arises due  
4 to two phenomena: 1) a pricing structure that permits different returns for raw milk of the same  
5 quality depending upon its end use (e.g., as fluid milk, powdered milk, or an ingredient for a  
6 product like cheese); and 2) a continual production process with fairly stable overall demand for  
7 milk used in all products, which requires farmers to maintain sufficiently large herds to meet the  
8 fluctuating demand for fluid milk production even in the leaner fall and winter periods of  
9 production. *Id.* at 2.

10 11. When these features were not regulated, the market was thought to become  
11 unstable. For example, as to the first phenomena, raw milk used for fluid milk (e.g., the gallon of  
12 milk one buys at the grocery store) can be sold by farmers for a higher price than raw milk used  
13 for other uses (e.g., powdered milk or milk products like cheese or yogurt). Thus, competition for  
14 fluid milk sales can become disruptive to the market. *Id.* at 4.

15 12. In an effort to “restore order to the market and boost the purchasing power of  
16 farmers,” Congress enacted the Agricultural Adjustment Act, ch. 25, 48 Stat. 31, which later  
17 formed the basis of the Agricultural Marketing Agreement Act of 1937 (AMAA), 7 U.S.C. 607.

18 13. The AMAA authorizes the Secretary of Agriculture to “establish and maintain such  
19 orderly marketing conditions... as will establish, as the price to farmers, parity prices.” 7 U.S.C.  
20 602(1). It accordingly empowers the Secretary of Agriculture to issue “marketing orders” that  
21 regulate minimum prices that dairy farmers may receive in certain defined geographic areas.  
22 Under the orders, milk is classified according to its end use (in other words, the ultimate product  
23 into which a processor turns the milk). Processors (called “handlers”) must account to a regional  
24 pool for each class of milk that they purchase. USDA then announces for each regional order a  
25 uniform or “blend price” that blends the various different class prices the processors owe into a  
26 single, uniform price. Handlers whose total obligation exceeds the minimum blend price, pay the  
27 minimum blend price directly to their dairy farmers and the remainder to a regional pool.  
28 Handlers whose total obligation to farmers falls short of the minimum blend price receive money