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 DEC 8 2011 12/8/11
 ENVIRONMENTAL COORDINATION SERVICES

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

10 CALIFORNIA CLEAN ENERGY)	CASE NUMBER
11 COMMITTEE, a California nonprofit)	
12 corporation,)	PROOF OF SERVICE OF NOTICE OF INTENT
)	TO FILE CEQA PROCEEDING
13 Petitioner,)	
14 v.)	
15 COUNTY OF PLACER, a political)	
16 subdivision of the State of California; and)	
DOES 1-50, inclusive,)	
Respondents.)	
17 HOMEWOOD VILLAGE RESORTS, LLC, a)	
18 Delaware limited liability company; JMA,)	
19 LLC, a California limited liability company;)	
and DOES 51-100, inclusive,)	
Real Parties in Interest.)	

21 I, Eugene S. Wilson, declare as follows:

- 22 1. I am, and was at the time of service of the papers herein referred to, over the age of
- 23 eighteen years and not a party to the within action.
- 24 2. I am employed in the County of Yolo, California, in which county the within-
- 25 mentioned mailing occurred. My business address is 3502 Tanager Avenue, Davis, California
- 26 95616.
- 27 3. I served the attached NOTICE OF INTENT TO FILE CEQA ACTION by placing a
- 28 copy thereof in a separate envelope for each addressee named hereafter, addressed to each such

1 addressee respectively as follows:

2 Mrs. Maywan Krach
3 Community Development Resource Agency
4 Environmental Coordination Services
5 3091 County Center Drive, Suite 190
6 Auburn, California 95603

7 I then sealed each envelope and mailed each with the United States mail at Davis,
8 California, on December 6, 2011.

9 I declare under penalty of perjury that the foregoing is true and correct and that this
10 declaration was executed on December 6, 2011, at Davis, California.

11 _____
12 Eugene S. Wilson
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NOTICE OF INTENT TO FILE CEQA ACTION

TO THE COUNTY OF PLACER:

PLEASE TAKE NOTICE, under Public Resources Code section 21167.5, that the California Clean Energy Committee intends to file an action under the provisions of the California Environmental Quality Act against respondent County of Placer challenging the certification of the final environmental impact report and the adoption of the Homewood Mountain Resort Ski Area Master Plan pursuant thereto and related actions by the County of Placer on December 6, 2011. A copy of the Petition for Writ of Mandate Pursuant to the California Environmental Quality Act is attached hereto as Exhibit A.

DATED: December 6, 2011

LAW OFFICE OF EUGENE WILSON



Eugene S. Wilson, Esq.
Attorney for California Clean Energy
Committee

Exhibit A

1 EUGENE S. WILSON, ESQ. (107104)
2 Law Office of Eugene Wilson
3 3502 Tanager Avenue
4 Davis, California 95616-7531
5 Phone: 530-756-6141
6 Facsimile: 530-756-5930

7 Attorney for California Clean Energy Committee

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

10 CALIFORNIA CLEAN ENERGY)	CASE NUMBER
11 COMMITTEE, a California nonprofit)	
12 corporation,)	PETITION FOR WRIT OF MANDATE;
)	PURSUANT TO THE CALIFORNIA
13 Petitioner,)	ENVIRONMENTAL QUALITY ACT AND
14 v.)	INJUNCTION UNDER THE PLANNING AND
)	ZONING LAW
15 COUNTY OF PLACER, a political)	
16 subdivision of the State of California; and)	
DOES 1-50, inclusive,)	
)	
Respondents.)	
<hr/>		
17 HOMEWOOD VILLAGE RESORTS, LLC, a)	
18 Delaware limited liability company; JMA,)	
19 LLC, a California limited liability company;)	
and DOES 51-100, inclusive,)	
)	
Real Parties in Interest.)	

20
21 Petitioner California Clean Energy Committee, by and through its attorney, alleges as
22 follows:

23
24 GENERAL ALLEGATIONS

25 1. Respondent County of Placer (County) is a political subdivision of the State of
26 California. The project described herein is located in the unincorporated area of Placer County on
27 the West Shore of Lake Tahoe. The County is the primary agency responsible under California law
28 for the project and as such the lead agency under CEQA responsible for preparation of the

1 environmental impact report and for the evaluation and design of the project mitigation.

2 2. Petitioner California Clean Energy Committee (Committee) is a nonprofit
3 corporation incorporated under the laws of the State of California maintaining its principal place of
4 business in the City of Davis, California. The corporation advocates on behalf of the general public
5 throughout the State of California for energy conservation, the development of clean energy
6 resources, reduced greenhouse gas emissions, smart growth, and related issues. The Committee
7 actively supports the application of the California Environmental Quality Act (CEQA) to energy
8 conservation and related issues.

9 3. Homewood Village Resorts, I.L.C, is a Delaware limited liability company, and the
10 project applicant for the project described herein. (DEIR at p. 2-1.) JMA, LLC is a California
11 limited liability company, that is pursuing the project. (FEIR a p. 23-1.)

12 4. The project which is the subject of this petition is the Homewood Mountain Resort
13 Ski Area Master Plan (Master Plan) which is comprised of a mixed use project at the North Base
14 area of the resort, residential use projects in the South Base area, a lodge at the Mid-Mountain Base
15 area, and support facilities in the ski area of the Homewood Mountain Resort (HMR). The project is
16 located on 1,200 acres adjacent to State Route 89 approximately six miles south of Tahoe City in
17 Placer County.

18 5. The project approvals requested by the applicant include adoption of amendments to
19 the West Shore Area General Plan, approval of a development agreement, approval of a conditional
20 use permit and planned residential use permit, and approval of a subdivision map.

21 6. Over forty (40) individuals in the Lake Tahoe West Shore area have joined the
22 Committee's request that the TRPA and Placer County require robust energy conservation and
23 environmental stewardship in the Homewood Mountain Resort Master Plan. The Committee's
24 supporters on the West Shore will be directly and adversely impacted by the implementation of the
25 project and by the failure of the Homewood Mountain Resort Ski Area Master Plan EIR/EIS (EIR)
26 to adequately evaluate the impacts of the project and to propose mitigation as required pursuant to
27 CEQA. Petitioner brings this action as a representative of the general public who will be affected by
28 the project.

1 7. Without a representative organization such as petitioner, it would be impractical and
2 uneconomic for individual members of the public to enforce CEQA with respect to the project
3 discussed herein. Without a representative action such as this one, the violations of CEQA described
4 in this petition would remain immune from judicial review. No governmental agency is prepared to
5 evaluate these environmental issues or to enforce the public rights that are at stake.

6 8. Venue for this action is proper in this court because the environmental impacts of
7 the actions alleged herein will cause direct and substantial impacts within Placer County and because
8 the principal office of the respondent agency is situated within Placer County.

9 9. Concurrently herewith petitioner is filing a declaration of prior service by mail upon
10 Placer County of written notice of intent to commence this action in compliance with the
11 requirements of Public Resources Code section 21167.5.

12 10. Petitioner is further filing and serving herewith its notice of an election to prepare
13 the administrative record in this matter pursuant to Public Resources Code section 21167.6.

14 11. The true names and capacities of the respondents and real parties in interest sued
15 herein under California Code of Civil Procedure section 474 as Does 1 through 100, inclusive, are
16 presently unknown to petitioner. Does 1 through 100 include agents of the county, state, and federal
17 government who are responsible in some manner for the conduct described herein and real parties in
18 interest presently unknown to the petitioner who claim some legal or equitable interest in the project
19 who petitioner therefore sues by such fictitious names. Petitioner will amend this petition to include
20 these Doe respondents' true names and capacities when they are ascertained. Each of the fictitiously-
21 named respondents is responsible in some manner for the conduct alleged herein.

22 12. Petitioner's action herein will result in the enforcement of important rights affecting
23 the public interest and confer substantial benefits on the general public. The necessity and financial
24 burden of private enforcement justify an award of attorney fees pursuant to Code of Civil Procedure
25 section 1021.5.

26 13. The draft EIR was published January 21, 2011, and the public comment period
27 extended through April 21, 2011. The final EIR was released on October 3, 2011. Despite the
28 extensive comments received, the County nevertheless prepared and relied on an EIR that falls well

1 below the minimum legal standards.

2 14. A public hearing was held on December 6, 2011, at which time the Placer County
3 Board of Supervisors certified the final EIR, adopted findings of fact, a mitigation and monitoring
4 program, a statement of over-riding considerations, and approved the project. If the respondent
5 agencies are allowed to proceed with the project, irreparable harm will result to the environment and
6 the public. No adequate remedy, other than that prayed for herein, exists by which the rights of the
7 petitioner and the class it represents may be protected.

8 15. Petitioner has exhausted all administrative remedies by submitting written
9 comments on the project requesting compliance with CEQA and a full and adequate environmental
10 review. All issues raised in this petition were raised with the respondent agencies by the Committee
11 or by other members of the public or public agencies prior to the certification of the EIR.
12 Respondent has made its final decision. This petition is timely filed in accordance with Public
13 Resources Code section 21167 and CEQA Guidelines section 15112.

14 TRIP GENERATION

15
16 16. The current use of the project site is skier accommodations including food services,
17 retail sales, ticket sales, ski school, mechanical rooms, daycare, administrative offices, etc. There
18 are no residential, general commercial, or hotel uses on the site.

19 17. The proposed project would add 274 residential units to the site including 245
20 condominiums, 16 townhomes, and 13 workforce apartments. The applicant also proposes to build a
21 75 room hotel with about 16,000 square feet dedicated to meeting space, spa, fitness center,
22 restaurant and bar uses. In addition the project includes 25,000 square feet of retail space, 32,000
23 square feet of skier services, a miniature golf course, and an outdoor amphitheater. (DEIR at p. 11-
24 26.)

25 18. Using standard trip generation rates published by the Institute of Transportation
26 Engineers (ITE) for each of these uses, the EIR projects that the project will generate 3,973 vehicle
27 trips daily in the winter. This represents a 57% increase in daily trip generation over the existing
28 2,535 daily trips generated by the facility. (DEIR at p. 11-41.) For summer trips the project is

1 expected to produce approximately 3,013 vehicle trips daily, all of which are new trips.

	Winter	Summer
Trip Generation	3,973	3,013
Existing Trip Generation	(2,535)	
Total New Trips	1,438	3,013

2
3
4
5 (DEIR at p. 11-46.) This represents a very considerable impact on the two-lane, low-speed road
6 serving the project—State Route 89 (SR 89)—that already experiences considerable traffic
7 congestion. Obviously this is a critical concern for residents and decisionmakers.

8 19. The County, however, does not accept these numbers. Rather, it concludes in the
9 EIR that the project will actually reduce vehicle traffic on SR 89 during the winter and will only
10 cause an increase of 1,456 new daily trips in summer. According to the County, a large number of
11 the anticipated vehicle trips generated by the project will actually not leave the project site because
12 individuals at the resort will find adequate facilities on site to meet their needs and will not need to
13 access local roads for services, i.e., trip reductions from “internal capture.” Second, the County
14 concludes that trips will be avoided because people at the resort will chose alternative modes such as
15 a shuttle and will not use their vehicles—i.e., trip reductions from “alternative mode trips.” Third,
16 the County assumes that many trips will be avoided because people will be dropped off at the resort
17 by someone headed to another destination—trip reductions from “pass-by trips.” (DEIR at p. 11-41.)

18 20. On this analysis, 1205 trips will be avoided daily because of “internal capture,” 355
19 trips will be avoided due to the use of alternate modes, and 205 trips will be avoided as “pass-by
20 trips.” (EIR at 11-46.) On this basis, the County has reduced daily winter trip generation by 1765
21 trips and consequently represents in the EIR that the project will result in a reduction in winter
22 vehicle traffic on SR 89. (EIR at 11-41.)

23 21. The basis for these internal capture reductions is what the County characterizes as
24 “assumptions.” (DEIR at pp. 11-28, 11-38.) The EIR includes “assumptions” that 25% of work
25 trips, 60% of recreational trips, and 40% of personal business trips from the residential units will be
26 made internally. Similarly, there are “assumptions” that 100%, 60%, and 40% of the trips from the
27 employee units and 70% and 40% of the trips from the lodging units will be avoided.

1 22. The rates of internal capture have not been analyzed and the findings on trip
2 generation impacts are unsupported. (Findings at p. 29.) The rates of internal capture are
3 unsupported by data, scientific authority, or explanation of any kind. An EIR must contain facts and
4 analysis, not just an agency's bare "assumptions." Where there is a standard, accepted methodology
5 that can feasibly be used to assess a significant impact, the lead agency must assess the impact unless
6 it provides a clear and supported justification for its failure to do so.

7 23. Petitioner requested that the agency use Institute of Traffic Engineers (ITE)
8 procedures for calculating "internal capture" and provided the agency with a copy of those
9 procedures. The ITE protocols provide (1) that the internal capture be based on either similar
10 projects or local data, (2) that the credit for internal capture be limited by the smaller of the
11 interacting land uses, and (3) that the analysis of internal capture use an iterative balancing process
12 constraining the internal trip making to what is reasonable. (FEIR at Comment Letter #11 at pp. 1-
13 2.) The agency has ignored the recognized procedures of the Institute of Traffic Engineers (ITE) for
14 calculating internal capture and simply assumes that for each type of trip a certain percentage of
15 vehicles will go to a destination within the resort.

16 24. The agency's response was simply to reiterate the basis for generating its "raw"
17 traffic numbers and to totally ignore ITE procedures used to calculate internal capture. (FEIR at p.
18 23-95.) The EIR failed to provide a good-faith reasoned explanation of why it failed to use the ITE
19 procedure for estimating internal capture and failed to provide any relevant information to support
20 the agency's "assumptions" procedure for calculating internal capture. The agency has been reckless
21 about the huge traffic impacts to the West Short that would result if its "assumptions" were to prove
22 inaccurate. Such practices are unlawful under CEQA and constitute an abuse of discretion.

23 25. With respect to trips made for business purposes, the EIR assumes that 40% of these
24 will be made to the resort. However, this requires a substantial retail component at the resort. The
25 EIR has not recognized that the resort contains only a very limited-size and vaguely-defined
26 commercial component. What this component would be has shifted. Originally the EIR claimed
27 this retail "will include a grocery store and potentially a hardware store." (DEIR at p. 11-48.) In
28 comments to the Board of Supervisors on November 15, 2011, the applicant stated that the on-site

1 commercial would include “only” an “ice cream, hardware, and deli.”

2 26. At the time of the trip generation analysis, the retail was supposed to be 25,000
3 square feet. The size and composition of the commercial component determines whether it will
4 capture local trips internally or not. Yet in the applicant’s November, 2011, comments to the Board
5 of Supervisors, it was disclosed that 10,000 square feet of this retail space would actually be located
6 at the Mid-Mountain Lodge. The Mid-Mountain Lodge has no vehicle access or parking. (DEIR at
7 3-25.)

8 27. Further it is quite likely that the retail shops at a resort will be tourist attractions
9 featuring expensive and artistic items. (FEIR at p. 24-41.) Such retail uses, even if they carried
10 appropriate goods, are still not likely to be patronized by local residents for ordinary shopping. Yet
11 the EIR treats this project like it were the local grocery or strip center. This small and expensive
12 commercial component is hardly a credible basis for making “assumptions” about internal capture.

13 28. The EIR misleadingly asserts the County used a “methodology [that] is consistent
14 with the ITE Manual.” (FEIR at p. 23-44.) However, the internal capture portion of the analysis
15 clearly was not done using the Institute of Traffic Engineers (ITE) Trip Generation Handbook. The
16 ITE provides an authoritative protocol for analyzing internal capture. Under this protocol the ability
17 of the commercial land use to draw and serve customers must be evaluated. No such analysis was
18 ever reported despite comments from the petitioner. The EIR simply ignores the question of whether
19 the commercial portion of the resort is large enough and diverse enough to attract the trips generated
20 by 274 condominiums and townhomes. (DEIR at pp. 11-28, 11-38.)

21 29. According to the ITE, “The number of trips *from* a land use within a multi-use
22 development *to* another land use within the same multi-use development (i.e., an internal trip) is a
23 function of the size of the ‘receiving’ land use and the number of trips it attracts as well as the size of
24 the ‘originating’ land use and the number of trips it sends. **The number of trips between a
25 particular pair of internal land uses is limited to the smaller of these two values.**” (TGE at p. 82,
26 emphasis in original.)

27 30. The ITE provides data for use in internal capture analyses. If that data is not used
28 for any reason, the analysis must **“either (1) collect local data to establish an internal capture**

1 **rate, according to the procedures described in section 7.7 of this chapter, or (2) assume no**
2 **internal capture.** (Note: although this assumption of no internal capture may be unrealistic, in the
3 absence of any data it is better to overestimate off-site vehicle-trips.)” (TGE at p. 86, emphasis in
4 original.) Clearly, the ITE provides an established protocol for calculating internal capture which
5 does not consist in the adoption of “assumptions.”

6 31. The EIR assumes that 25% of the work-related trips from the condominiums and
7 townhouses will be to jobs at the resort. Yet the ITE Trip Generation Handbook points out that
8 internal capture is affected by whether those who work on the site can afford to live on the site.
9 (TGH at p. 94.) In the case of Homewood, the median asking price for a house or condominium was
10 \$1,204,298 in 2007. (DEIR at p. 7-3.) And the resort is expected to produce “lower-income” jobs
11 associated with leisure, retail trade, and hospitality employment. (DEIR at pp. 7-8, 7-19.) Such
12 seasonal service workers are not likely to be living in new luxury condominiums at Lake Tahoe.
13 Rather the vast majority of residents in Homewood fall into two categories--management,
14 professional and related occupations first followed by sales and office occupations. (DEIR at p. 7-5.)
15 These residents will not be working at the resort which contains no leased office space that would be
16 a likely workplace for residents in these occupations. There is no basis to assume that 25% of the
17 work-related trips from the housing will go to the resort.

18 32. Further, these “assumptions” about internal capture rates are improbably high.
19 URBEMIS—a standard traffic engineering tool used specifically for making adjustments to ITE trip
20 generation rates for developments that are located near transit or that contain a mix of uses—allows
21 a maximum possible credit for mixed use of 9%. The EIR’s guesstimates assumptions for internal
22 capture rates are 25%, 40%, 60%, 70%, and 100%.

23 33. Worse still, according to the Institute of Traffic Engineers (ITE), internal capture
24 applies to “a single real-estate project that consists of two or more ITE land use classifications
25 between which trips can be made without using the off-site road system.” (TGH at p. 79, emphasis
26 added.) Picking up on this factor, the County asserts that internal capture applies here because “this
27 trip making activity never ventures to the external roadway network.” (DEIR at p. 11-28; FEIR at p.
28 23-44.) Yet this clearly misrepresents the case for much of the project. The retail uses are located at

1 the North Base. (FEIR at p. 24-42.) Consequently, residents of the 95 condos at South Base would
2 have a half-mile drive to North Base travelling on State Route 89, the dedicated state highway which
3 is the focus of the traffic concerns. (DEIR at p. 3-22.) The typical trip would also go on Ski Bowl
4 Way, which is a dedicated public road. Both vehicle and pedestrian access is blocked by
5 townhouses and commercial structures going from South Base to North Base. (DEIR at p. 3-23;
6 Findings at p. 6; FEIR at p. 24-43.) The trip to North Base from the 16 townhomes on Tahoe Ski
7 Bowl Way by car would be even further. Such trips clearly are not trip-making activity that “never
8 ventures to the external roadway network.”

9 34. The internal capture “assumptions” for hotel guests are also a conflict with ITE
10 protocols. According to the EIR, internal capture is “someone who is staying at the hotel may go
11 shopping at the retail use without generating an external trip.” (FEIR at p. 23-44.) For this purpose,
12 the EIR assumes 70% of recreational/social trips and 40% of personal business trips are made
13 internally for hotel guests. However, trip generation analyses do not apply internal capture to
14 accessory recreational and social trips connected with a hotel. According to the ITE, “A hotel with
15 an on-site restaurant and small retail falls within Land Use Code 310 and should not be treated as a
16 multi-use development.” (TGH at p. 80, emphasis added.) Nevertheless, the EIR classifies the hotel
17 as land use category 310 and then incorrectly attributes a 55% internal capture rate to it. (DEIR at
18 App. K-2.) The EIR misleadingly states that “all analysis was performed using national state-of-the-
19 practice methods for conducting traffic impact studies.” (FEIR at p. 23-43.) Clearly the traffic
20 analysis does not meet ITE standards.

21 35. The “assumptions” for summer trip reductions suffer from the same unsupported
22 analysis, and the summer “assumptions” are unsupported for an additional reason. The internal
23 capture rate for recreational/social trips has been assumed to be the same 60% in both winter and
24 summer. Yet the ski facilities are closed in the summer. (DEIR at pp. 11-28, 11-38.) There is no
25 justification for assuming an equivalent number of trips would be made to the resort in the summer.
26 The EIR summarily concludes that in lieu of skiing, the summer “includes walking and bicycling
27 recreational trips that occur within the Project area such as hiking or using the bicycle share
28 program.” (DEIR at p. 11-28.) Speculating that “walking and bicycling” will in the summer draw as

1 many trips in the summer as skiing does in the winter is completely without support.

2 36. Each of these assumptions is applied to reduce the number of trips that one would
3 expect for a typical home based the National Household Travel Survey, which states that 18% of
4 household trips are work-related trips, 27% are recreational/social trips, 45% are personal business
5 trips, and 10% are school or church related trips. (DEIR at pp. 11-28, 11-38.) It is obviously
6 unlikely that condominiums and townhouses at a ski resort will have the same mix of trips that a
7 typical residence would have.

8 37. The EIR's reductions based on the "pass-by rate" are also at odds with ITE
9 standards. According to the EIR "[t]he pass-by rate is applied to the shopping center use and not to
10 any other use within the project." (DEIR at p. 11-30.) The 15,000 square feet of "an ice cream,
11 hardware and deli" does not constitute a "shopping center" and ITE rates for shopping center pass-
12 by trips are not applicable. There is no shopping center on the site, and the pass-by reduction
13 attributed to a shopping center is not applicable to the project.

14 38. The EIR's assumptions about transit do not comply with current traffic analysis
15 either. The EIR makes the unsupported assumption that for each passenger that takes transit, there
16 will be an equivalent reduction in the number of people travelling by car. Current traffic planning
17 clearly does not support this kind of assumption. The current literature largely debunks the ability of
18 transit to reduce traffic congestion, and certainly does not support a one-to-one reduction of auto
19 travel. Transit ridership to a large degree represent individuals who do not have another mode of
20 transport and consequently would not add to the traffic count if transit were not available.

21 39. Further, the EIR has completely overlooked the impact that reduced parking at the
22 resort will have on traffic congestion. When the parking lot is filled, more skiers are going to be
23 dropped off at the resort because no parking is available. Consequently a trip that would have been a
24 one-way trip to the resort becomes a two-way trip to drop off skiers which includes a return by the
25 driver to vehicle parking in Tahoe City or elsewhere. Further, when parking facilities at the resort
26 are full, there will still be vehicles attempting to find parking at or near the resort who will generally
27 make several trips and turns cruising around looking for parking. These additional trips at peak
28 hours considerably exacerbate traffic congestion.

1
2 INCREASED TOURISM TRAVEL

3 40. The Lake Tahoe Basin is traditionally a vacation or second-home area. (DEIR at p.
4 7-1.) The project is intended to provide “tourist recreational services and vacation homes that draw
5 visitors to the area.” (DEIR at p. 7-19.) During ski season Lake Tahoe ski resorts attract thousands
6 of people from all over Nevada and California. A large portion of the housing stock in Homewood
7 is used either as vacation homes or as seasonal rentals.” (DEIR at 7-3.)

8 41. Largely people travel to Lake Tahoe travel by car. Long-haul visitors fly.
9 According to the World Tourism Organization, the transport of tourists to and within destinations
10 accounts for 75 percent of all carbon dioxide emissions by the tourism sector, with air travel making
11 up about 40 percent of the total. The tourism industry requires vast amounts of energy for the
12 production of its products, services, and visitor experiences. The National Ski Areas Association
13 points out that travel to ski areas has unavoidable impacts and that a variety of potential mitigation
14 measures exist such as working with travel agents to promote car-free vacations.

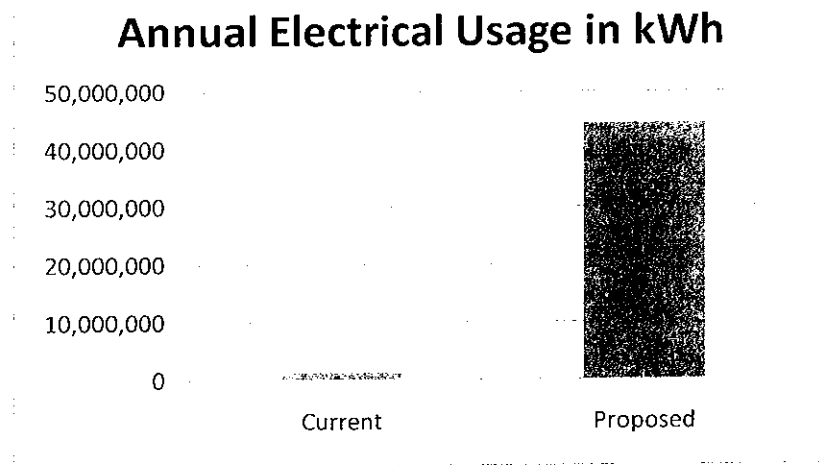
15 42. Increased tourist travel is a reasonably foreseeable indirect consequence of the
16 project resulting in potentially significant impacts on the physical environment and as such must be
17 identified and evaluated. The EIR notes that the implementation of the project “will increase
18 tourism in the LATB,” but it fails to identify or evaluate the energy and climate impacts associated
19 with increased tourism travel. (DEIR at p. 19-20.) The County’s response to petitioner’s comment
20 on travel impacts was insufficient and non-responsive. The agency simply asserted that impacts to
21 the level of service (LOS) at intersections did not exist beyond the immediate area of the project.
22 The agency is required to use its best efforts to find out and disclose all that it can. The EIR is
23 incomplete and does not contain a good-faith effort at full disclosure and does not use existing data
24 on travel impacts. The identification and evaluation of environmental impacts was inadequate as a
25 matter of law.

26
27 ENERGY IMPACTS

28 43. The EIR does not consider the project’s impacts on energy or reach a conclusion on

1 whether energy impacts of the project are significant or not. It considers whether the project will
2 have an impact on local utilities. The EIR considers whether the project will increase electric or
3 natural gas demand “to such a degree that service standards and objectives cannot be maintained or
4 new facilities are needed that could cause significant environmental effects.” (DEIR at p. 16-13.)
5 This is not an analysis of energy impacts under CEQA.

6 44. The EIR notes that the resort currently consumes 1.3 million kilowatt-hours per
7 year. It states that project energy usage for new resort will be approximately 44.5 million kilowatt-
8 hours per year. Under the proposed plan, electrical usage at the site will increase by 3,150%.



18 (DEIR at p. 16-24.) On its face this is a serious adverse impact to energy and requires full
19 evaluation and mitigation. Yet the EIR fails to identify this jump in energy use as a potential impact
20 or to evaluate it. This constitutes a prejudicial abuse of discretion under CEQA.

21 45. The EIR fails to evaluate energy conservation and design features for the project
22 and fails to evaluate what energy savings could feasibly be achieved. The EIR only states that a
23 portion of the project known as “North Base” will incorporate LEED energy savings features and
24 that Title 24 will be complied with in other areas of the project. There is a total lack of discussion
25 what energy efficiency measures were considered for the project, which ones were selected, and why
26 others were not adopted.

27 46. The EIR fails to evaluate energy use in various sectors of the project such as lifts,
28 lighting, heating, air conditioning, snowmaking, snow grooming, and pumping. (DEIR at 16-24.)

1 The EIR fails to use the Snowmaking Energy Index (SEI) that measures and compares the energy
2 efficiency of snowmaking systems. Proposed upgrades to the site include installation of a high-
3 speed gondola. (EIR at 3-30.) Energy conservation has not been discussed for this equipment. It
4 fails to discuss on-site, petroleum-based fuel use. The project is planning to install 40,000 gallons of
5 diesel fuel storage on site. (EIR at 3-29.)

6 47. The project involves a substantial increase in the snow-making capacity. The
7 snowmaking system will provide for greater snowmaking in the early and late season. Snowmaking
8 coverage will be expanded from 23 acres to 102 acres. 20.8 million gallons of water will be required
9 for opening day. (EIR at 3-29.) The considerable energy requirements connected with this
10 expansion have not be analyzed or mitigated. Snowmaking involves pumping large quantities of
11 water and very high energy demands. A Snowmaking Energy Index (SEI) has been developed and
12 tested to measure and compare the energy efficiency of snowmaking systems. An average SEI value
13 can be used to estimate seasonal energy costs and for expansion and planning purposes. No SEI
14 analysis has been done. No analysis has been done on how to reduce energy consumption connected
15 with snow-making.

16 48. No consideration has been given to the increase in snow-making that will be
17 required as Sierra snowpack is reduced due to climate change. Sierra snowpack is projected to
18 reduced by 60 to 80 percent of current levels by 2070-2099. The Homewood base is 6240 feet
19 making it quite subject to warming trends. Snow-making is highly energy-intensive and water
20 resource intensive. The EIR estimates an energy load of 3,145 horsepower and pumping capacity of
21 3,400 gallons per minute to generate adequate snow. (EIR at 19-37.) The EIR estimates 818,543
22 kilowatt hours per year. (EIR at 19-38.) The environmental analysis must consider how climate
23 change will increase the energy and water consumption resulting from snow-making operations in a
24 warming climate.

25 49. The EIR fails to identify the energy supplies that would serve the project. Instead it
26 identifies the utility companies that would provide electricity and natural gas during site operation.
27 The EIR does not disclose whether the electrical energy used will be derived from coal-based power
28 plants in Nevada or other resources. The draft EIR stated that electrical energy would be supplied by

1 NV Energy. (DEIR at 16-24.) In the response to comments, the applicant asserted without
2 explanation that “Liberty Energy provides electric service to the Project area.” (FEIR at p. 23-96.)
3 The EIR does not specify whether Liberty Energy is a direct access provider or what energy supplies
4 would be used to serve the project. NV Energy operates coal-fired power plants at Valmy, Nevada.
5 Valmy produces four million tons of CO₂ pollution annually along with sulfur dioxide and mercury
6 emissions. The failure to identify the energy supplies that would serve the project constitutes an
7 abuse of discretion under CEQA.

8 50. The EIR does not consider potential renewable energy resources such as wind,
9 geothermal, small-scale hydro, geo-thermal heat pump, cogeneration, solar, on-site biogas cell for
10 organic waste, and biomass on site or in the region. There is no discussion of the impact of the
11 project on energy resources. The environmental setting contains no discussion of energy use
12 patterns in the region. There is no discussion of peak and base period demand or of energy storage
13 strategies such as pumped hydro. The cooling tower located in the new snowmaking pumphouse has
14 an obvious potential for cogeneration that should be evaluated. (EIR at 3-29.) Geothermal heat
15 pumps could be used for space heating.

16 51. The EIR states that the project proponent plans to explore the site for renewable
17 resources such as micro-hydro, solar, geothermal, biomass, and wind. It references as “most
18 promising” the potential for micro-hydro on Madden Creak and the Quail Lake outlet stream. (EIR
19 at 3-26.) Mitigation must be evaluated before project approval.

20 52. The EIR fails to consider energy consuming equipment and processes which will be
21 required during construction of the project. It fails to discuss the energy impacts of vehicle trips that
22 would be generated by the project and the energy that would be consumed per trip by mode. There
23 is no discussion of projected transportation energy use or overall use of efficient transportation
24 alternatives.

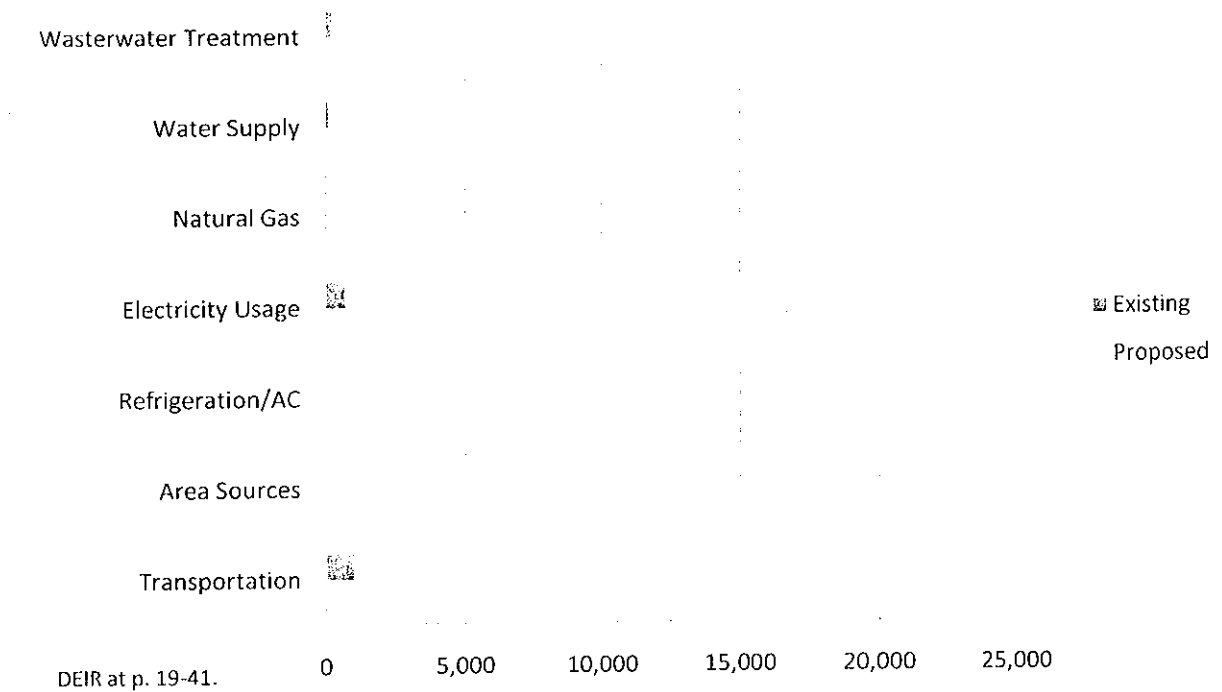
25 53. Natural gas (NG) consumption will also rise dramatically. The project proponent
26 reported current NG usage of 11,000 therms per year while the EIR projects 1,064,000 therms per
27 year. The increase appears to be attributable to the commercial portions of the project but this is
28 unclear. (EIR at 19-34.) There is no explanation of the increase, no threshold, no significance

1 determination, and no discussion of mitigation.

2
3 CLIMATE DISRUPTION

4 54. The EIR reports that annual GHG emissions will increase from a total of 2,220
5 metric tons to 45,064 metric tons per year. (DEIR at p. 19-41.) This amounts to almost a 20-fold
6 increase in GHG emissions from the project site. The following chart illustrates the emissions data
7 in the EIR.

8 **Annual GHG Emissions in Metric Tons**



22 55. The EIR fails to explain the dramatic increase in GHG emissions beyond what the
23 current resort produces making it impossible for the public or decisionmakers to understand why the
24 increase would be required or to suggest ways that it might be mitigated. The actual increase in
25 project emissions are greater than is shown in this chart because the EIR does not contain
26 quantitative projections for emissions from forest removal, waste generation, or construction
27 materials. (DEIR at 19-19.) Due to reliance on erroneous assumptions for internal capture, pass-by
28 trips, and transit use (discussed above), transportation emissions are understated. (DEIR at p. 19-23.)

1 And increased tourist travel, which may be the largest GHG impact of the project, has been entirely
2 omitted from the analysis. Consequently, the GHG emissions of the resort are going to increase
3 considerably more than 20-fold.

4 56. The EIR concludes that the project would have a significant and unavoidable
5 cumulative impact on climate change because it “would result in substantial net increases of GHG
6 [emissions] and vehicle trips.” (EIR at p. 19-49.) Further, it concludes that the project “may conflict
7 with State goals listed in AB 32 [Global Warming Solutions Act of 2008] and policies outlined in
8 the 2008 RTP [TRPA Regional Transportation Plan].” (EIR at 19-56.) The Lake Tahoe Regional
9 Transportation Plan calls for reducing VMT in the Lake Tahoe Basin to 1981 levels. (LTRTP at p.
10 71.) And the California Air Resources Board has set targets under SB 375 to reduce per capita GHG
11 emissions by 2020 in the area 7% below the 2005 baseline year. (DEIR at p. 19-16.) The
12 Homewood project acknowledges an 8,433 miles per day increase in vehicle miles traveled (VMT)
13 (EIR at 11-57, 11-58) and an increase summer season daily trip generation of 1466. (EIR at p. 11-59)

14 57. The County cannot approve a project with substantial impacts when feasible
15 mitigation for the impacts exists. As was pointed out in the comment letters, feasible mitigation for
16 the GHG impacts of the project can includes carbon credits, forest conservation projects, increased
17 funding for transit service, increased funding for biking and pedestrian infrastructure, marketing for
18 rail packages, subsidies for sustainable energy projects, increased development of on-site energy and
19 storage resources, employee transit incentives, parking pricing, on-site public education, transit fare
20 subsidies, new transit service, car-sharing programs, SOV reduction programs, support for electric
21 vehicles, on-line ride matching, etc.

22 58. The agency did not provide a good faith, detailed, and reasoned response to
23 petitioner’s comments suggesting this mitigation. In response to the suggestion that the agency
24 consider “marketing for rail packages,” the agency made the absurd response that “construction of a
25 rail system may cause secondary impacts.” (FEIR at p. 23-97.) VisitRenoTahoe.com already does
26 some joint marketing with Amtrak.

27 59. The response to the comment letter concludes that carbon credits are unlawful
28 because offsets “must be consistent with an approved and valid protocol” and that they may “require

1 the Project Applicant to pay hundreds of thousands of dollars over the Project lifetime.” (FEIR at p.
2 23-94; Findings at p. 135.) This is incorrect. Only market-based compliance mechanisms under the
3 Global Warming Solutions Act of 2006 must be governed by protocols. No requirement for “an
4 approved and valid protocol” exists under CEQA. Further, mitigation is not limited to those
5 measures that can feasibly reduce the impacts to a level that is less than significant.

6 60. The agency concluded that “no new or different proposals to address GHG
7 emissions were provided.” (Findings at p. 73.) This was clearly in error. The climate change
8 mitigation never considered carbon credits, never considered reforestation projects outside of the
9 project site, never considered the potential for transit and biking improvements in the Basin beyond
10 those that serve Homewood, never considered subsidizing sustainable energy projects in the Basin,
11 never considered increased development of on-site clean energy production and storage, never
12 considered parking pricing, never considered car-sharing programs, never considered any form of
13 support for electrical vehicles, and never considered on-line ride matching.

14 61. The agency erroneously failed to consider whether full mitigation would be
15 possible. The EIR concluded that “because it is impossible to allow new development without GHG
16 emissions, mitigation of this impact to a less-than-significant level would be facially infeasible and
17 this impact is significant and unavoidable.” (Findings at p. 134.) The agency was in error to view
18 mitigation to a less than significant level as “impossible” because all new development produces
19 GHG emissions. Mitigation under CEQA includes measures that do not avoid or reduce the impact
20 directly but that compensate for an impact.

21 62. An adequate EIR must respond to specific suggestions for mitigating a significant
22 environmental impact unless the suggest mitigation is facially infeasible. Each of limited number of
23 ideas proposed constituted a reasonable and recognized tool for climate impact mitigation aimed at
24 this specific project. The agency had a responsibility under CEQA to consider each proposal and to
25 provide a good-faith response. The agency’s summary dismissal of these proposals makes it
26 impossible to understand whether it considered them or what its reasoning might have been. This
27 process was unlawful under CEQA and constituted a prejudicial abuse of discretion.

28 63. Further no findings were made concerning whether it would have been feasible or

1 infeasible to implement the mitigation, except for unsupported findings as to carbon credits and
2 constructing a new railroad, which was not suggested. (Findings at pp. 134-35.) No economic, legal,
3 social, technological or other considerations were provided showing any reason to reject the
4 proposed mitigation. The only finding was that no new or different mitigation for GHG impacts had
5 been proposed. This was clearly unsupported and a prejudicial abuse of discretion.

6 64. The GHG mitigation as described in the EIR is so vague and undefined that it is
7 impossible to gauge the effectiveness of it or for the agency to enforce it. The EIR lists project
8 features designed to reduce GHG emissions such as solar or wind power systems, educating
9 consumers, installing solar panels on carports, education and publicity about reducing waste,
10 imposing tolls and parking fees, a low-carbon fuel vehicle incentive program, and providing
11 information on options to reduce transportation-related emissions. (DEIR at p. 19-48.) The South
12 base will be constructed “using LEED criteria as a template.” (DEIR at 19-44.) It is impossible for
13 the public or decisionmakers judge the effect of this mitigation. The terms are so broadly written
14 that they could not be enforced. The UGBC certification described as mitigation should be required
15 to be provided to the permitting agency, i.e., Placer County, prior to issuance of a certificate of
16 occupancy.

17 65. Comprehensive on-going management of the GHG reduction programs is required
18 for the programs to be effective. Aspen-Snowmass and Jackson Hole have achieved ISO 14001
19 certification which means that their on-going environmental management meets ISO’s strict
20 standards. Squaw Valley conducts environmental audits each ski season using an independent third
21 party firm to audit heating and energy use in all the resort facilities including base and on-mountain.
22 Without assurance that compliance will be carried on long-term, the proposed mitigation programs
23 are not realistic.

24
25 EMERGENCY EVACUATION

26 66. The California Department of Forestry and Fire Protection (CalFire) has designated
27 the area where the Homewood Mountain Resort is located as a Very High fire hazard area. (DEIR at
28 p. 17-4.) According to the Emergency California-Nevada Tahoe Basin Fire Commission Report—

1 which was prepared as a consequence of the Angora Fire that burned 3,100 acres and destroyed 254
2 homes—"The risk of wildfire in the Tahoe Basin is extremely high and the probability of
3 catastrophic fire occurrence is increasing." And according to the EIR, "Wildfires are a substantial
4 threat to the HMR Project area and vicinity due to location of people and structures in a WUI
5 [wildland-urban interface] setting with heavy fuel loads, steep terrain, summer dry conditions, and
6 multiple ignition sources." (DEIR at p. 17-13.) And further according to the EIR, "Wildfire
7 frequency and intensity is expected to increase as temperatures increase, vegetation dries, and soil
8 moisture evaporates." (FEIR at p. 24-286.)

9 67. Yet the EIR contains no evaluation of emergency evacuation risks that would be
10 connected with placing 274 residential units, a 75 room hotel, 25,000 square feet of retail space,
11 32,000 square feet of skier services, a miniature golf course, and an outdoor amphitheater in a very
12 high-risk fire hazard area with no evacuation route other than a two-lane, low-speed road. The EIR
13 raises the question of whether the project "would result in an interference with emergency response
14 plans or emergency evacuation plans." Yet there is no analysis of the evacuation issue. The EIR
15 summarily concluded that major buildings would be located next to SR 89 and are therefore
16 expected to have adequate evacuation routes and consequently concluded that there was no
17 significant impact for evacuation in the event of wildfire. (DEIR at p. 17-15.) There is no evaluation
18 of the total number of residents, businesses and tourists that could safely be evacuated from the West
19 Shore, without impeding emergency vehicle access, in the event of wildfire and no evaluation of the
20 cumulative impact of the project on evacuation safety.

21 68. Substantial evidence in the record points to a potentially significant impact to public
22 safety as a result of locating a large resort in a Very High fire hazard area with the sole emergency
23 evacuation route being State Route 89, a two-lane roadway with speed limits between 25 and 40
24 mph. (DEIR at p. 11-1.)

25 69. The National Fire Protection Association (NFPA) maintains standards for land
26 development relating to emergency ingress and egress. NFPA standard 1141 call for at least two
27 access routes for areas with 100 to 600 households. Areas with more than 600 households require
28 three emergency access routes. The two-lane width of SR 89 further degrades its capacity to serve

1 as an emergency route. The EIR should evaluate the number of households in the area that would
2 depend on SR 89 for emergency evacuation in the event of wildfire.

3 70. The objective of ensuring the public safety from natural hazards requires the
4 maintenance of emergency evacuation routes for populated areas during wildfire events. The West
5 Shore Area General Plan does not comply with Government Code section 65302(g)(1), which
6 requires that the general plan safety element address evacuation routes related to identified fire
7 hazards. The West Shore has been identified by Cal Fire as a Very High wildland fire hazard area.
8 The West Shore Area General Plan safety element does not address wildfire evacuation routes and
9 consequently the County has failed to adopt a general plan compliant with the State Planning and
10 Zoning Law. The Board of Supervisors could therefore not find that the proposed project was
11 consistent with the general plan.

12 13 FIRST CAUSE OF ACTION

14 (Failure to Comply with CEQA)

15 71. Petitioner hereby incorporates by reference each and every allegation set forth
16 above.

17 72. CEQA requires that the lead agency for a project prepare an EIR that complies with
18 the requirements of the statute. The lead agency must also provide for public review and comment
19 on the project and associated environmental documentation. An EIR must provide sufficient
20 environmental analysis such that decision-makers can intelligently consider environmental
21 consequences when acting on the proposed project.

22 73. Respondents violated CEQA by certifying an EIR for the project that is inadequate
23 and fails to comply with CEQA and approving the project on that basis. Among other things,
24 respondents:

- 25 a. Failed to adequately disclose or analyze the project's significant environmental
26 impacts including but not limited to the project's impacts on transportation,
27 energy, air quality, energy, climate disruption, and emergency evacuation;
28 b. Failed to provide a consistent and appropriate environmental baseline for

1 analysis of the project's environmental impacts;

2 c. Failed to adequately analyze the significant cumulative and growth-inducing
3 impacts of the project;

4 d. Improperly deferred impact analysis and mitigation measures;

5 e. Failed to adequately mitigate project impacts; and

6 f. Failed to consider a reasonable range of alternatives.

7 74. As a result of the foregoing defects, respondents prejudicially abused their
8 discretion by certifying an EIR that does not comply with CEQA and by approving the project in
9 reliance thereon. Accordingly, respondent's certification of the EIR and approval of the project must
10 be set aside.

11
12 SECOND CAUSE OF ACTION

13 (Inadequate Findings)

14 75. Petitioner hereby incorporates by reference each and every allegation set forth
15 above.

16 76. CEQA requires that a lead agency's findings for the approval of a project be
17 supported by substantial evidence in the administrative record. CEQA further requires that a lead
18 agency provide an explanation of how evidence in the record supports the conclusions the agency
19 has reached.

20 77. Respondents violated CEQA by adopting findings that are inadequate as a matter of
21 law in that they are not supported by substantial evidence in the record, including, but not limited to
22 the following:

23 a. The determination that certain impacts would be less than significant and/or
24 that adopted mitigation measures would avoid or lessen the project's significant
25 effects on the environment;

26 b. The determination that alternatives to the project and proposed mitigation
27 measures that would have avoided or lessened the significant impacts of the
28 project were infeasible;

1 c. The determination that overriding economic, legal, social, technological, or
2 other benefits of the project outweighed its significant impacts on the
3 environment.

4 78. As a result of the forgoing defects, respondents prejudicially abused their discretion
5 by adopting findings that do not comply with the requirements of CEQA and approving the project
6 in reliance thereon. Accordingly, the agency's certification of the EIR and approval of the project
7 must be set aside.

8
9 THIRD CAUSE OF ACTION

10 (Failure to Recirculate the EIR)

11 79. Petitioner hereby incorporates by reference each and every allegation set forth
12 above.

13 80. CEQA requires that if significant new information is added to an EIR after a draft
14 EIR is prepared, but before certification of the final EIR, the EIR must be recirculated for public
15 review and comment.

16 81. Comments submitted to respondents after the draft EIR was circulated provided
17 significant new information within the meaning of Public Resources Code section 21092.1 and
18 CEQA Guidelines section 15088.5 including, but not limited to, information about transportation
19 impacts, greenhouse gas emissions, energy conservation, and emergency evacuation.

20 82. Despite the availability of this significant new information, including a changed
21 project, respondents failed to recirculate the EIR, or any portion of the EIR. As a result of
22 respondent's failure to recirculate the EIR, the public and other public agencies were deprived of any
23 meaningful opportunity to review and comment on the project, its substantial adverse environmental
24 consequences, and the new information regarding other unanalyzed environmental effects of the
25 project.

26 83. Respondents' failure to recirculate the EIR is not supported by substantial evidence
27 and represents a failure to proceed in the manner required by law.

28

1 FOURTH CAUSE OF ACTION

2 (Declaratory and Injunctive Relief)

3 84. Petitioner hereby incorporates by reference each and every allegation set forth
4 above.

5 85. The West Shore Area General Plan does not reflect substantial compliance with the
6 requirements of Government Code section 65302(g)(1), which requires that the general plan safety
7 element address evacuation routes related to identified fire hazards areas. The West Shore, including
8 the project site, has been identified by Cal Fire as a Very High wildland fire hazard area. The Safety
9 Element is further fails to substantially comply with section 65302 due to the failure to address
10 peakload water supply requirements, minimum road widths, and clearances around structures as
11 those items relate to identified fire hazards. Due to the location of the proposed project within a
12 very high risk fire zone, these general plan defects are implicated in the project approval.

13 86. Placer County has failed to adopt a general plan compliant with the State Planning
14 and Zoning Law. The Board of Supervisors could not lawfully find that the proposed project was
15 consistent with the general plan and lacked the authority to approve the project.

16 87. An actual controversy has arisen and now exists between petitioner and respondent.
17 Petitioner and the class it represents require a judicial determination of the rights and duties of the
18 parties and a declaration that the West Shore Area General Plan is invalid for non-compliance with
19 Government Code section 65302. A judicial determination is necessary and appropriate at this time
20 and under these circumstances in order that the parties may ascertain their rights and duties under the
21 law and know the extent to which respondent's general plan is lawful.

22 88. Petitioner is informed and believes, and on that basis alleges, that unless the County
23 is restrained and enjoined by order of this court, it will continue to engage in the above-described
24 acts and omissions constituting a violation of the CEQA and the Planning and Zoning Law.

25 89. Petitioner and the class it represents have no adequate remedy at law to compel the
26 County to comply with Government Code section 65302 or CEQA, nor can the class be
27 compensated adequately for the losses alleged herein by an award of damages in that petitioner will
28 not be able to determine the precise amount of damage the class will suffer if respondent's conduct

1 is not restrained.

2 90. Such conduct will result in irreparable harm to petitioner and the class it represents.
3 The threat of such irreparable and permanent damage justifies the issuance by this court of an
4 injunction.

5 91. Petitioner seeks preliminary and permanent injunctions restraining respondent, its
6 agents, employees, contractors, consultants and all persons acting in concert with them, from
7 undertaking any construction or development, issuing any approvals or permits, or taking any other
8 action to implement in any way the approval of the project without full compliance with California
9 Planning and Zoning Law section 65302 and CEQA.

10
11 WHEREFORE, petitioner respectfully requests the following relief:

- 12 1. A peremptory writ of mandate commanding that:
- 13 a. Respondent vacate and set aside its certification of the EIR, approval of the
 - 14 project and the related approval of the mitigation monitoring and reporting
 - 15 plan, statement of overriding considerations and findings;
 - 16 b. Respondent withdraw the notice of determination;
 - 17 c. Respondent prepare and circulate a revised EIR for public review and comment
 - 18 that is in compliance with the requirements of CEQA; and
 - 19 d. Respondent suspend all activity pursuant to the certification of the EIR and the
 - 20 related approvals that could result in any change or alteration to the physical
 - 21 environment until it has taken all actions necessary to comply with CEQA.

22 2. A declaratory judgment that the County's general plan is invalid for failure to
23 comply with Government Code section 65302 and for the issuance of preliminary and permanent
24 injunctions restraining the Board from approving and processing tentative maps or general plan
25 amendments until such time as the Placer County General Plan Safety Element shall comply with the
26 provisions of section 65302;

27 3. Preliminary and permanent injunctions restraining respondent, its agents,
28 employees, contractors, consultants and all persons acting in concert with them, from undertaking

1 any construction or development, issuing any approvals or permits, or taking any other action to
2 implement in any way the approval of the project without full compliance with California law;

3 4. A declaration of the rights and duties of the parties hereto, including but not limited
4 to a declaratory judgment that prior to undertaking any action to carry out any aspect of the project,
5 respondent must prepare, circulate, and adopt a revised EIR in accordance with the requirements of
6 CEQA;

7 5. Petitioner's costs of suit and reasonable attorney fees; and

8 6. Such other relief as the court deems just and proper.

9 Dated: December _____, 2011

10
11 LAW OFFICE OF EUGENE WILSON

12
13 _____
14 Eugene S. Wilson, Esq.
15 Attorney for the California Clean Energy
16 Committee
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VERIFICATION

I am an officer of petitioner, California Clean Energy Committee, and I am authorized to execute this verification on behalf of petitioner. I have read the foregoing petition and am familiar with its contents. The facts recited in the petition are true of my personal knowledge except as to matters stated on information and belief and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was signed on December _____, 2011, at Davis, California.

Eugene S. Wilson