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10 Attorneys for Petitioner FRIENDS OF THE EEL RIVER

11
12 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
13 IN AND FOR THE COUNTY OF HUMBOLDT

14 FRIENDS OF THE EEL RIVER, a public benefit
15 corporation,
16 Petitioner,
17 vs.

18 COUNTY OF HUMBOLDT, a state entity;
19 BOARD OF SUPERVISORS OF THE COUNTY
20 OF HUMBOLDT, a public entity,
21 Respondents.

Case No.

VERIFIED PETITION FOR WRIT OF
MANDATE

(Code of Civil Procedure § 1085)

22 Petitioner FRIENDS OF THE EEL RIVER (hereinafter “Petitioner” or “FOER”) petitions this
23 Court on their own behalf, on behalf of their members, on behalf of the general public, and in the
24 public interest pursuant to Code of Civil Procedure § 1085 for a writ of mandate directed to
25 Respondents COUNTY OF HUMBOLDT and the BOARD OF SUPERVISORS OF THE COUNTY
26 OF HUMBOLDT (hereinafter “Respondents” or “County”) to implement a program which protects the
27 public trust within the Lower Eel River by restricting or regulating groundwater pumping from the Eel
28 River Valley Groundwater Basin during dry and critical water years and to cease accepting
applications for the issuance of well drilling permits for new wells and modifications for existing wells
pending the establishment of such program. By this verified petition, FOER alleges as follows:

1. Petitioner brings this action to challenge the County’s failure to utilize its powers to
regulate the extraction of groundwater from wells in the Eel River watershed in a manner that protects

1 the public trust during low water years. The Eel River is a public trust resource under California's
2 Public Trust Doctrine, which establishes that the waters and wildlife of the state belong to the people,
3 and that the State acts as a trustee to manage and protect those resources for the benefit of the people of
4 the State. The Eel River provides habitat for many fish and wildlife protected under the Public Trust
5 Doctrine. It is also a navigable waterway used for boating, rafting and fishing. In recent dry years
6 during the late summer and early fall months, key stretches of the Lower Eel River have dried up or
7 had stream flows reduced to very shallow levels, interrupting the river's public trust uses. The
8 pumping of groundwater from the Eel River Valley Groundwater Basin for irrigation purposes has
9 contributed to and exacerbated the reduction of surface water depth in the Lower Eel River and
10 prolonged the duration that dewatered river stretches or reduced surface depths persist.

11 2. The stretch of the Lower Eel River from the confluence of the Van Duzen River to
12 Fernbridge has been identified as a groundwater dependent ecosystem unit which supports cold
13 freshwater habitat, wildlife habitat, habitat for rare, threatened and endangered species, migration of
14 aquatic organisms, and spawning, reproduction and early development habitat of fish. In particular, the
15 Lower Eel River serves as critical habitat for Chinook salmon (*Oncorhynchus tshawytscha*), coho
16 salmon (*Oncorhynchus kisutch*), and steelhead (*Oncorhynchus mykiss*), all of which are designated as
17 threatened or endangered. Areas of the river which are too shallow or lack surface flow inhibit the
18 migration of salmonids during the summer and fall. Additionally, the use of boats, kayaks and
19 paddleboards is disrupted in areas of the river where water depth is decreased or eliminated.

20 3. As fiduciary of the public trust, the County has the authority and the duty to enact an
21 ordinance to regulate groundwater pumping to reduce impacts to the Eel River's public trust uses
22 during low flow periods. Groundwater extractions influence surface water flow and water levels in the
23 Lower Eel River. Humboldt County has adopted an ordinance to regulate the construction,
24 reconstruction, repair, and destruction of water wells. However, the ordinance fails to reference or
25 require consideration and avoidance of the effects of groundwater pumping on surface flows or public
26 trust uses or resources. The County has not taken any action to review the impacts to the public trust
27 resulting from groundwater pumping from wells and its reduction of surface flows in the Lower Eel
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1 River, nor to create a program that would reduce or control groundwater extraction in low water years
2 in a manner that eliminates or reduces impacts on the public trust.

3 4. For these and other reasons identified below, the County has violated and continues to
4 violate the Public Trust Doctrine by failing to protect the Lower Eel River from numerous and
5 injurious extractions of groundwater causing injury to the Lower Eel River's public trust uses,
6 including but not limited to fish, wildlife and navigation. Accordingly, Petitioners request that
7 Respondents be compelled to develop a management plan for the Eel River Valley Groundwater Basin
8 that reduces groundwater pumping in anticipation of and during low flow periods as necessary to
9 reduce, minimize, or prevent impacts to the public trust, and that Respondents be enjoined from
10 accepting applications for the issuance of well drilling or modification permits affecting the Eel River
11 Valley Groundwater Basin until such time as the County is not in violation of their public trust duties.

12 **JURISDICTION AND VENUE**

13 5. This Court has jurisdiction of this proceeding pursuant to Code of Civil Procedure
14 section 1085.

15 6. Venue is proper in this court pursuant to Code of Civil Procedure § 394 because the
16 County of Humboldt is the Respondent and the public trust violations are occurring in Humboldt
17 County. Petitioner also resides in Humboldt County.

18 7. This petition is timely filed within any applicable statute of limitations. No statute of
19 limitations applies to ongoing violations of the public trust. Respondents' violations of the public trust
20 in the Lower Eel River are ongoing.

21 8. Petitioner has served Respondents with a written notice of Petitioners' intention to
22 commence the Public Trust Doctrine claims included in this action. The written notice was sent via e-
23 mail and First Class mail on August 16, 2022. A true and correct copy of the written notice and proof
24 of service is attached hereto as Exhibit A.

25 9. Pursuant to Code of Civil Procedure § 388, Petitioner will provide a copy of this
26 Petition to the Attorney General.

1 10. Petitioner has no plain, speedy or adequate remedy in the course of ordinary law unless
2 this Court grants the requested writ of mandate to require Respondents to apply their police powers
3 develop a management plan for the Eel River Valley Groundwater Basin, adopt ordinances
4 implementing the management plan, and, pending the adoption of such program and ordinances, to
5 cease accepting applications for the issuance of well drilling permits and well modifications affecting
6 the Eel River Valley Groundwater Basin. In the absence of such remedies, Respondents will continue
7 violating the Public Trust Doctrine.

8 **PARTIES**

9 11. Petitioner FRIENDS OF THE EEL RIVER is a non-profit public benefit corporation
10 with its main office in Eureka, California. FOER's mission is to work for the recovery of the Wild and
11 Scenic Eel River, its fisheries, and communities. Since 1994, FOER has worked to restore and protect
12 the Eel River and its surrounding ecosystems from excessive water diversions, damaging pollution
13 from roads, timber harvests, cannabis operations, and other sediment pollution sources, and ongoing
14 habitat degradation and wildlife disturbances. FOER has focused on efforts to protect salmonids
15 threatened with extinction, including Coho salmon, Chinook salmon, and steelhead trout.

16 12. FOER's members enjoy the natural environment of Humboldt County, including the Eel
17 River and its tributaries. Petitioner's members regularly enjoy wading, swimming, rafting, kayaking,
18 floating, fishing, hiking, watching birds, fish, and other wildlife, observing and photographing plants
19 and wildlife, and otherwise experiencing the Eel River. As members of the public, Petitioner's
20 members possess an ownership interest in public resources present in the County including but not
21 limited to the Eel River and the fish species that rely on it for critical habitat, some of which are
22 threatened and endangered, and strictly protected by the California Fish & Game Code and California
23 and Federal Endangered Species Acts.

24 13. Respondent COUNTY OF HUMBOLDT is a municipal corporation with its
25 headquarters in Eureka, California. The County is the governmental entity which has a right and duty
26 to govern the permitting of groundwater wells within its jurisdiction in order to protect the health,
27 welfare and safety of the residents of the County. Humboldt County also has an ongoing and
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1 continuing duty to protect public trust resources in a manner consistent with the Public Trust Doctrine.
2 Humboldt County has adopted a limited groundwater management ordinance and keeps minimal
3 recordation of wells within the County, through a permitting system for well construction,
4 reconstruction, repair, and destruction.

5 14. Respondent BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT is the
6 governing body for the County of Humboldt.

7 15. FOER and its members have a direct and beneficial interest in ensuring that the County
8 fully complies with its duties under the Public Trust Doctrine and limits or regulates activities which
9 adversely affect public trust uses, especially species threatened with extinction like the Coho and
10 Chinook salmon, and steelhead trout. Unrestricted groundwater pumping from the Eel River Valley
11 Groundwater Basin, and continued issuance and modifications of well drilling permits, has resulted in
12 and will continue to contribute to the reduction or elimination of surface flows in the Lower Eel River
13 during the time of year when surface water is already largely depleted and salmonids are impeded from
14 migrating, increasing their risk of extinction. The lack of management of groundwater extraction in the
15 Eel River Valley Groundwater Basin and continued, unfettered pumping from existing and any
16 proposed new wells also impairs the public's use and enjoyment of the public trust by disrupting the
17 use of boats, kayaks and paddleboards in areas of the river where water depth is decreased or
18 eliminated. These existing and potential disturbances to aquatic and wildlife habitat and public use of
19 the trust in the Lower Eel River undermine the conservation and recreational interests of Petitioner and
20 its members.

21 16. The maintenance and prosecution of this action will confer a substantial benefit on the
22 public by assuring that the County meet its duty to address and eliminate public trust impacts to the
23 Lower Eel River from groundwater pumping in the Eel River Valley Groundwater Basin.

24 17. Petitioner has no plain, speedy, or adequate remedy in the ordinary course of law within
25 the meaning of Code of Civil Procedure § 1086, in that Respondents' failure to apply their public trust
26 duties in a manner that protects the public trust uses of the Lower Eel River is not otherwise
27 reviewable in a manner that provides an adequate remedy. Accordingly, Petitioner seeks this Court's
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1 review of Respondents’ failure to comply with their duty to take actions necessary to protect the public
2 trust and to rectify the violations of the Public Trust Doctrine summarized above and detailed below.

3 18. Unless stayed, Respondents’ issuance of permits for the construction of new and
4 expansion of existing wells will allow the depletion of the Eel River’s surface flows and adverse
5 effects on the public trust to continue despite it being contrary to the public interest. Petitioner and its
6 members will suffer irreparable harm by Respondents’ failure to take the required steps to protect the
7 public trust, including serious threats to threatened salmonids and the public’s use and enjoyment of
8 the Lower Eel River.

9 19. Petitioners have requested action from Respondents. Respondents have failed to act,
10 contrary to their duties under the Public Trust Doctrine and Petitioners have exhausted all available
11 administrative remedies before filing this petition.

12 LEGAL BACKGROUND

13 The Public Trust Doctrine

14 20. The State of California “holds all of its navigable waterways and the lands lying
15 beneath them as trustee of a public trust for the benefit of the people.” (*Colberg, Inc. v. State of Cal. ex*
16 *rel. Dept. of Public Works* (1967) 67 Cal.2d 408, 416.) The State and its subdivisions, including the
17 County, have an affirmative duty to take the public trust into account in the planning and allocation of
18 water resources, and to protect public trust uses whenever feasible. (*National Audubon Society v.*
19 *Superior Court* (1983) 33 Cal.3d 419, 446 (*National Audubon*); *Env’tl Law Foundation v. State Water*
20 *Resources Control Bd.* (2018) 26 Cal.App.5th 844, 868 (“*ELF*”).) The County must act, “so far as
21 feasible, to avoid or minimize harm” to the interests protected under the trust, including, where
22 necessary, controlling extractions from waters that are not navigable to protect waters that are.
23 (*National Audubon, supra*, 33 Cal.3d at pp. 426, 435-37.)

24 21. The duty under the public trust doctrine “exists as a matter of law itself.” (*United States*
25 *v. State Water Res. Control Bd.* (1986) 182 Cal.App.3d 82, 150. *See, e.g.* Public Resources Code
26 [“PRC”] § 85023;) Public trust uses “should not be destroyed” simply because the responsible
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1 governmental body “thought itself powerless to protect them.” (*National Audubon, supra*, 33 Cal.3d at
2 p. 452.)

3 22. The purpose of the public trust is to protect navigation, waterborne commerce, fishing,
4 and recreational and ecological uses. (*National Audubon, supra*, 33 Cal.3d at pp. 434–435.) The public
5 trust doctrine protects the public trust uses of navigable waters, including waters navigable by
6 recreational watercraft. (*Id.* at p. 435 & fn. 17.) The public trust doctrine also applies to activities that
7 affect fish in any water in the state. (*People v. Truckee Lumber Co.* (1897) 116 Cal. 397, 399; see also
8 *California Trout, Inc. v. State Water Resources Control Bd.* (1989) 207 Cal.App.3d 585, 629–630
9 (*California Trout*) [public trust in fish is not limited to navigable waters, but also “extends to all waters
10 within the state, public or private, wherein these animals are habited or accustomed to resort for
11 spawning or other purposes, and through which they have freedom of passage to and from the public
12 fishing grounds of the state.”].) To further the protection of public trust uses, the public trust doctrine
13 limits conduct affecting those uses, even if the conduct does not occur in, on, or immediately adjacent
14 to navigable waterways. (*Id.* at p. 437.) Thus, to the extent extraction of groundwater in the Eel River
15 watershed has the potential to affect the Eel River itself and fish in the Eel River, that extraction is
16 subject to the public trust doctrine. (*ELF, supra*, 26 Cal.App.5th at pp. 858- 862.)

17 23. Every state subdivision has a duty to consider the impacts of its actions on the public trust,
18 whether the Legislature has required it to do so by legislation or not. (*Ctr. for Biological Diversity, Inc.*
19 *v. FPL Grp., Inc.* (2008) 166 Cal.App.4th 1349, 1370, fn. 19.) How it discharges that duty is a matter
20 for the subdivision to decide in the first instance. (*National Audubon, supra*, 33 Cal.3d at p. 447 [“It is
21 clear that some responsible body ought to reconsider the allocation of the waters of the Mono
22 Basin.”].) But if the subdivision fails to discharge the duty, the courts have jurisdiction to remedy the
23 failure. (*San Francisco Baykeeper, Inc. v. State Lands Com.* (2015) 242 Cal.App.4th 202, 243.

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25 24. The County has adopted an ordinance to regulate the construction, reconstruction,
26 repair, and destruction of water wells. Humboldt County Code, Title VI, Div’n 3, Chapter 1, § 631.1
27 et seq. (“Well Ordinance”). The Well Ordinance was enacted pursuant to the County’s police powers
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1 57. Unless Petitioners are granted relief as set forth herein, they will suffer irreparable harm
 2 in that Respondents’ ongoing failure to manage groundwater resources interconnected with the Lower
 3 Eel River in a manner consistent with the Public Trust Doctrine is injuring public trust resources to the
 4 detriment of Petitioners, to public trust resources and to the people of the State.

5 **PRAYER FOR RELIEF**

6 1. An order from the Court declaring that the County has a duty to utilize its police powers
 7 to protect Public Trust values in the lower Eel River from the impacts of groundwater well pumping.

8 2. Alternative and preemptory writs or preliminary and permanent injunctions compelling
 9 Respondent Humboldt County to develop by a date certain a regulatory program establishing the
 10 County’s authority to restrict groundwater pumping and, in anticipation of and during low flow
 11 periods, implement such restrictions on groundwater pumping from the Eel River Valley Groundwater
 12 Basin in a manner consistent with the Public Trust Doctrine as it applies to the Lower Eel River;

13 3. Alternative and preemptory writs or preliminary and permanent injunctions compelling
 14 Respondent Humboldt County to cease accepting applications for the issuance of well drilling permits
 15 for new wells and expansions of any existing wells for groundwater from the Eel River Valley
 16 Groundwater Basin until such time as the County is not in violation of their public trust duties.

17 4. Costs of suit, expenses, including reasonable attorney fees according to the California
 18 Code of Civil Procedure § 1021.5, and other provisions of law; and

19 5. Such other and further relief as the Court deems appropriate.

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 21 Dated: October 27, 2022

LOZEAU | DRURY LLP

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 23 
 Michael R. Lozeau
 Attorneys for Petitioner Friends of the Eel River

VERIFICATION

1 I, Michael R. Lozeau, am an attorney for Petitioner in this action. I am verifying this Petition
2 pursuant to California Code of Civil Procedure section 446. Petitioner is absent from the County of
3 Alameda, in which I have my office. I have read the foregoing petition and complaint. I am informed
4 and believe that the matters in it are true and on that ground allege that the matters stated in the
5 complaint are true.
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7 I declare under penalty of perjury under the laws of the State of California that the foregoing is
8 true and correct.

9 Date: October 27, 2022


Michael R. Lozeau

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such groundwater wells, including no limits on the rate and quantity of groundwater that can be extracted.

In recent years, the Eel River has experienced historically unprecedented drought conditions and low river flows. These conditions have had significant adverse impacts on surface flow conditions in the Lower Eel River. Although the Lower Eel River's surface flows are naturally reduced during the summer and early fall months, historically, the surface flows have almost never been reduced to nothing. Based on flow records maintained by the United States Geological Survey ("USGS") since 1910, the only time the Lower Eel River recorded the elimination of surface flows downstream of its confluence with the Van Duzen River, was in 1912. That one-time occurrence did not repeat again until 2014. During the summer and early fall of that year, the river's surface flows ceased at one or more shallow riffle areas located between the mouth of the Van Duzen River and Fernbridge.

Those two incidents, spaced out over a hundred-year period, have now given way to a pattern of surface flow disruptions in the Lower Eel River the occurrence of which is accelerating. In August and September 2021, surface flows in the Lower Eel River once again ceased for a stretch of the river upstream of Fernbridge. On August 30, 2021, biologists for the California Department of Fish & Wildlife documented at least three riffle areas near the Sandy Prairie Gravel Bar Extraction Project where flows in the river were insufficient to allow any feasible path for adult salmon to ascend the river. It is FOER's understanding that the riffle disruption observed by DFW persisted until September 15, 2021, when the operator of the Extraction Project, at the request of DFW, dug several channels through the depleted riffle areas to connect fish runs through this area. According to the Humboldt County Groundwater Sustainability Agency's ("County GSA") proposed Eel River Valley Groundwater Sustainability Plan ("GSP"), "[a]nalysis of precipitation and streamflow data for the North Coast and in the Eel basin particularly suggests that the length and severity of low flow periods in the Eel River have increased more than can be explained by variations in rainfall." GSP, p. 24.

A critical source of surface flows in the Lower Eel River is the shallow alluvial aquifer that underlays the coastal plain through which the Lower Eel River flows. The alluvial aquifer also is the primary water source of agricultural wells in the Eel River Valley Groundwater Basin. At present, it is estimated that about 350 wells are extracting groundwater for purposes of irrigating from about 12,000 acres to almost 15,000 acres of land. The higher withdrawal volume occurs during the driest, critical water years. The County GSA estimates that the amount of groundwater being pumped per acre increases from 0.9 acre-feet per acre in a below normal water year to 1.0 and 1.2 acre-feet per acre in dry and critical years, respectively. Thus, in a critical water, the County GSA estimates that irrigators in the Lower Eel River extract about 14,848 acre-feet of water from the Eel River Valley Groundwater Basin. As recently as 2019, DWR estimated that irrigators pump about 41,000 acre-feet per year from the Groundwater Basin.

The Groundwater Basin's alluvial aquifer is strongly connected to Eel River surface waters. In preparing the GSP, the County GSA relied on hydraulic modeling that provides the

County GSA's quantification of the volume of water removed from the Lower Eel River by groundwater pumping for irrigated lands. GSP, p. 5. According to the modeling, the simulated flow rates during the fall at the shallow riffles located between the confluence of the Van Duzen River and Fernbridge are now typically below the minimum fish passage flows of 130 cfs identified by the GSP. Moreover, these flow rates are monthly averages. As a result, there likely are periods of time less than one month in duration where the river surface flows are reduced even further or, on some occasions eliminated.

The modeling also presents maximum, average, and minimum changes in monthly average stream flow due to groundwater extraction at the riffle locations in the Lower Eel River. The modeling results indicate that the maximum reduction in streamflow under current conditions due to pumping ranges from 9 to 12 percent. For example, the GSP modeling indicates that groundwater pumping likely would reduce flow in the Eel River in the riffle area just upstream of Fernbridge by up to 14 cfs in the summer months. According to NMFS, "[t]he historical record at the Scotia gage indicates that minimum flows range from 15-27cfs in August." In its comments on the GSP, NMFS states that "[t]his modeled reduction in flow near [Fernbridge] is attributed to groundwater use and may be removing a majority of the flow in the Eel River during the summer and early fall, leading to disconnected and dry reaches...."

The 2021-2022 wet season has now come to a close. Precipitation to date in Humboldt County for the 2021-2022 water year is about 67% percent of normal (https://ggweather.com/seasonal_rain.htm). Likewise, Eel River stream flows measured at the USGS's stream flow gage at Scotia, California, indicate that surface flows at that upstream location on August 10, 2022 (134 cfs) are well below the median (144 cfs) and average (158 cfs) flow rates for this time of year (https://waterdata.usgs.gov/ca/nwis/uv/?site_no=11477000&agency_cd=USGS). Rather than any diminution in the quantity of groundwater being extracted from the shallow alluvial aquifer connected to the Lower Eel River, these conditions are leading to more groundwater extraction. As a result, FOER is informed and believes that there is a high risk that the Lower Eel River's surface flows will be either eliminated again or reduced to levels injurious to fish. Without ensured reductions in summer and early fall groundwater extractions, these conditions are certain to recur in the future.

The Lower Eel River is critical habitat for several species of salmon designated as threatened or endangered, including Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*), and steelhead (*Oncorhynchus mykiss*). The National Marine Fisheries Service also has designated the river as essential fish habitat for Pacific Coast salmon. Chinook migrate up the Eel River in late summer and fall. Adult Coho salmon migrate upstream from mid-fall to early winter. Steelhead migrate upstream on the Eel River beginning in the fall. Thus, during the late summer and early fall months, reductions in flows over the shallow riffle zones found in the river between Fernbridge and the confluence of the Van Duzen can inhibit migrations of salmonids when those areas are too shallow or there is no surface flow. Where water depth at these riffle areas is 0.4 feet or less, adult Chinook salmon migration will be

blocked. Depths of 0.5 to 0.6 feet in these riffle areas will inhibit adult Chinook salmon migration.

In addition to these fish impacts, during the summer and fall months, kayaking, paddleboarding and other boating activities occur on the Lower Eel River. The use of boats, kayaks and paddleboards is disrupted in areas of the river where water depth is decreased or eliminated.

These low water year impacts to trust uses are exacerbated by groundwater pumping from wells permitted by the County. Indeed, in some critical water years, the groundwater pumping may be the straw that breaks the camel's back, eliminating the remaining surface flows in shallow areas of the Lower Eel River or reducing surface flow depths to levels which block fish passage and other activities. The groundwater pumping also extends the duration of these critically low surface flow conditions.

The County has an affirmative duty to take the public trust into account in the planning and allocation of water resources, and to protect public trust uses whenever feasible. *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, 446; *Env't'l Law Foundation v. State Water Resources Control Bd.* ("ELF") (2018) 26 Cal.App.5th 844, 868. Because the groundwater extraction from wells over which the County has police power authority is adversely affecting the Lower Eel River and its public trust uses, the groundwater extraction is subject to the Public Trust Doctrine. *ELF*, 26 Cal.App.5th at 858-62. Nevertheless, with the exception perhaps of the modeling efforts in the GSP, the County has not taken any action to review the impacts to the public trust resulting from groundwater pumping from wells and its reduction of surface flows in the Lower Eel River. The County has not taken any steps to apply its authority to create a monitoring, reporting, regulatory and management program that would reduce or otherwise control the pumping of groundwater in a manner that eliminates or reduces, wherever feasible, the impacts from groundwater extraction on the public trust values of the Lower Eel River. Because of these omissions, the County is violating its affirmative duty to consider the public trust and protect it whenever feasible.

FOER hereby requests the County to take immediate steps to create and implement a program by which the County can utilize its police powers to limit the volume, rate, and timing of groundwater being extracted through wells located in the Lower Eel River Valley so as to eliminate the adverse effects of groundwater pumping on the public trust uses of the Lower Eel River. Should the County refuse to take such steps or further delay such steps, FOER is prepared to file a petition for writ of mandate in Superior Court seeking the issuance of a writ of mandate compelling the County to develop by a date certain a management plan addressing how the County will establish its authority to restrict groundwater pumping and implement such restrictions on groundwater pumping from the Eel River Valley Groundwater Basin in a manner that ensures the Lower Eel River's trust uses are not diminished or adversely effected. The Petition also would seek an order requiring the County to cease accepting applications for the issuance of well drilling permits for new wells and expansions of any existing wells for

Re: Notice of Intent to File Suit
To Enforce the Public Trust Doctrine
August 16, 2022
Page 5 of 6

groundwater extractions from the Eel River Valley Groundwater Basin until such time as the County complies with its public trust duties.

If the County is interested in discussing FOER's concerns and wishes to explore possible resolutions that could obviate the need for FOER to file the lawsuit described above, the County should contact FOER's counsel Michael Lozeau ((415) 596-5318; michael@lozeaudrury.com) or FOER Executive Director Alicia Hamann ((707) 382-8859; alicia@eelriver.org) as soon as possible.

Sincerely,



Michael R. Lozeau
Lozeau Drury LLP
Attorneys for Friends of the Eel River

PROOF OF SERVICE

I, Toyer Grear, declare as follows:

I am a resident of the State of California, and employed in Oakland, California. I am over the age of 18 years and am not a party to the above-entitled action. My business address is 1939 Harrison Street, Suite 150, Oakland, California, 94612.

On August 16, 2022, I served a copy of the foregoing document entitled:

Notice of Humboldt County's Failure to Comply With its Duty to Consider and Protect the Public Trust Uses of the Lower Eel River From Adverse Effects of Groundwater Extractions During Late Summer of Low Water Years

on the following parties:

Virginia Bass, Chair
Mike Wilson, Vice Chair
Rex Bohn
Michelle Bushnell
Steve Madrone
Kathy Hayes, Clerk of the Board
Board of Supervisors for Humboldt County
825 5th Street, Room 111
Eureka, CA 95501
khayes@co.humboldt.ca.us

Scott A. Miles, Interim County Counsel
Office of the County Counsel
825 5th Street, Room 110
Eureka, CA 95501
CountyCouncil@co.humboldt.ca.us

<input checked="" type="checkbox"/>	BY MAIL. By placing the document listed above in a sealed envelope with postage thereon fully prepaid for First Class mail, in the United States mail at Oakland, California addressed as set forth above.
<input checked="" type="checkbox"/>	BY EMAIL. By sending the documents as an electronic mail attachment in PDF format to the e-mail address above.
<input type="checkbox"/>	BY FACSIMILE TRANSMISSION. By sending the documents via facsimile transmission to the fax telephone number identified above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed August 16, 2022 at Pittsburg, California.


Toyer Grear