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11 SUPERIOR COURT OF STATE OF CALIFORNIA
12 COUNTY OF SAN FRANCISCO
13

14 PUBLIC EMPLOYEES FOR ENVIRONMENTAL
RESPONSIBILITY, a non-profit corporation

15 Petitioner/Plaintiff,
16

17 vs.

18 CALIFORNIA DEPARTMENT OF FORESTRY & FIRE
PROTECTION, and DOES 1 to 5,
19

20 Respondents/Defendants.
_____ /

CASE NO.

PETITION FOR WRIT OF
MANDATE AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

21
22 Petitioner/Plaintiff alleges:

23 **INTRODUCTION**

24 1. Petitioner and Plaintiff, the Public Employees for Environmental Responsibility
25 (“PEER”) brings this action to challenge the conduct and practices of the State Respondent California
26

27 Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief
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1 Department of Forestry and Fire Protection (“CDF”) in its review and approval of timber harvest plans
2 within the geographic region of the Central Valley Regional Water Quality Control District for the State
3 of California. CDF has unlawfully approved timber harvest plans by failing to provide legally-required
4 review and analysis of the harvesting plan. CDF failed to insure that an interdisciplinary review team
5 had an opportunity to review each plan. In failing to meet this mandate under the Z’ Berg Nejedly
6 Forest Practice Act of 1973, CDF has unlawfully approved harvest plans of California timber on
7 private lands that insufficiently evaluate significant environmental effects of the harvesting on the health of
8 California forests. CDF’s failure to insure participation of review team agencies in the timber harvest
9 plan review constitutes a violation of the State agency certification required by California law. (Pub.
10 Res. Code § 21080.5 (d).)

11

12 PARTIES

13 2. Petitioner/Plaintiff PUBLIC EMPLOYEES FOR ENVIRONMENTAL
14 RESPONSIBILITY (“Petitioner” or “PEER”) is a national non-profit corporation based in
15 Washington, D.C. with chapters throughout the United States, including California. PEER represents
16 current and former federal, state and municipal employees of land and forest management, wildlife
17 protection, and pollution control agencies who are frustrated by the failure of governmental agencies to
18 enforce their statutory environmental mandates. Over 1200 Californians are members of PEER, a
19 number larger than all other States, individually. PEER members working for government agencies are
20 frequently caught in a conflict between their duties as employees of a State agency, their ethical beliefs,
21 and the risk of disciplinary action for insubordination. Consequently, PEER members rely on PEER to
22 bring this action on their behalf. PEER members in California include professional biologists, botanists
23 and water quality engineers who oversee implementation of state and federal statutes and regulations
24 designed to safeguard fish and wildlife resources, water quality, and other ecological values that may
25 be harmed by the harvesting of timber on private lands. The fish and wildlife resources affected by

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1 harvesting of timber on private land belong to the people of the State of California. Some PEER
2 members work for agencies that have trustee responsibilities for those fish and wildlife resources.
3 Watershed impacts from harvesting of timber on private timber lands affect the people of the State of
4 California. PEER members work for public agencies with trustee responsibility for protecting water
5 quality and fisheries habitat. PEER brings this action on behalf of itself and its adversely affected
6 members.

7 3. The above described aesthetic, scientific, conservation, and recreational interests of
8 Petitioner/Plaintiff and its members have been, are being, and unless the relief requested is granted, will
9 continue to be adversely affected and irreparably injured by the failure of defendants to comply with the
10 Forest Practice Act of 1973. Members of PEER live and work in the same geographic area as that
11 which is under the jurisdiction of the Central Valley Regional Water Quality Control Board. PEER and
12 its members are adversely affected by the failure to provide adequate interdisciplinary review because
13 then there is not reliable information as to the affect from harvesting on the many resources for which
14 members of PEER have public trust responsibilities. Petitioner/Plaintiff has no adequate remedy at law.

15 4. Respondent/Defendant CALIFORNIA DEPARTMENT OF FORESTRY AND
16 FIRE PROTECTION (“CDF”) is an agency of the State of California charged by the legislature with
17 regulation of state timberlands and enforcement of environmental and other state and federal laws prior
18 to and during the conduct of timber harvesting operations. This regulation must occur with a goal of
19 sustained production of high-quality timber products in a manner consistent with the protection and
20 restoration of values relating to wildlife, fisheries, recreation, aesthetic enjoyment and regional vitality
21 and employment. CDF must insure participation of review team agencies in the review and
22 consideration of timber harvest plans. These agencies include the Regional Water Quality Control
23 Boards with jurisdiction over the individual forest districts throughout the State of California. The
24 Regional Water Quality Control Board which operates within the Northern Forest District, Region 2,

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1 and the Southern Forest District, Region 3, is the Central Valley Regional Water Quality Control
2 Board, hereafter referenced as “Regional Board.”

3 5. The true names and capacities of DOES 1 to 5 are unknown and Petitioner/Plaintiff will
4 seek leave to amend this petition/complaint when they have been properly ascertained.

5 6. Petitioner/Plaintiff is informed and believes that each of the Respondents/Defendants
6 was the agent and/or employee of each of the remaining respondents and was acting within the scope
7 and course of such agency and/or employment when engaged in the conduct described in this pleading.

8 7. This suit is brought and jurisdiction sought by way of a petition for writ of mandate
9 under Code of Civil Procedure sections 1085 et seq.; and as a petition/civil complaint pursuant to the
10 California Public Resources Code, including the Z'berg-Nejedly Forest Practice Act of 1973 (sections
11 4511, et seq.), section 4514.5; a complaint for declaratory relief, pursuant to Code of Civil Procedure,
12 section 1060; and as an action based upon statute pursuant to Code of Civil Procedure, section 338(a).
13 Petitioner/Plaintiff has performed all conditions precedent to filing suit and/or is excused from such
14 conditions.

15 8. At all times mentioned herein, CDF has been able to insure participation of the Regional
16 Board in the review of timber harvest plans and to obtain from the Regional Board necessary
17 information to sufficient to evaluate significant environmental effects. Despite such ability, CDF has
18 failed and continues to fail to perform its duty to insure participation of the Regional Board as a member
19 of the review team for those timber harvest plans located within the geographic area under the
20 jurisdiction of the Regional Board, and has approved plans with insufficient information to evaluate
21 significant environmental effects. CDF has further misrepresented to the public through issuance of
22 documents entitled “Official Response of the Director of the California Department of Forestry and Fire
23 Protection to Significant Environmental Points Raised During the Timber Harvesting Plan Evaluation
24 Process” that the Regional Board was a participant in the review of timber harvest plans when in fact

1 CDF has failed to insure the Regional Board’s participation in the review of harvest plans located within
2 the geographic area of the Regional Board’s jurisdiction.

3 9. If CDF is not ordered to comply with its mandatory duty to insure participation of the
4 Regional Board in the review of each timber harvest plan within the geographic area of the Regional
5 Board’s jurisdiction the environmental resources affected by timber harvesting will suffer immediate,
6 irreparable, and permanent damage. Petitioner/Plaintiff, with members who are forest-using citizens,
7 taxpayers, and residents of California is active and concerned about water quality, water quantity,
8 slope stabilities, increased flooding due to sedimentation and augmented peak flows, riparian
9 protection, fish and wildlife, and the conservation-based use and respect of all forest land resources.
10 Accordingly, PEER has standing to bring this action. In pursuing this action which involves the
11 enforcement of an important public right affecting the public interest Petitioner/Plaintiff will confer a
12 substantial benefit on the People of the State of California. PEER is therefore entitled to recover from
13 Respondent/Defendant reasonable attorney’s fees pursuant to §1021.5 of the Code of Civil Procedure.

14 10. Notice of the filing of this action was forwarded to CDF on April **, 2002. (*See*
15 attached letter, Exhibit A.)

16 **FACTUAL AND LEGAL SETTING**

17 11. Timber harvest plans must undergo “interdisciplinary” review in order to comply with
18 the statutory certification requirements for timber harvest pursuant to the California Environmental
19 Quality Act (“CEQA”), Pub. Res. Code §21080.5 (d). The Regional Board is a designated member
20 of the interdisciplinary review team required by Pub. Res. Code §4582.6 and Cal. Code of Regs., tit.
21 14, §1037.5. As a member of the review team, the Regional Board is entitled to receive a copy of
22 timber harvest plans which propose activities within the geographic area under the Regional Board’s
23 jurisdiction, and which are submitted to CDF for filing and review, and to make comments which must
24 be considered and responded to by CDF. CDF has an unequivocal obligation to “insure that an

1 interdisciplinary review team has had an opportunity to review each plan.” (Cal. Code of Regs., tit. 14,
2 §1037.4.)

3 12. Though a series of communications, the Regional Board has repeatedly advised CDF
4 that it could not participate in the interdisciplinary review team process for timber harvest plans in its
5 geographic area of jurisdiction. CDF has taken no steps to insure the participation of the Regional
6 Board in the interdisciplinary review team process for plans located within the geographic area of the
7 Regional Board’s jurisdiction, and instead has proceeded with the review and approval of numerous
8 timber harvest plans without the participation of the Regional Board. Notwithstanding CDF’s failure to
9 insure the Regional Board’s participation in the review of timber harvest plans through the
10 interdisciplinary review team process, CDF has publicly and erroneously reported that the Regional
11 Board has participated in the review of timber harvest plans for which the Regional Board did not
12 participate in the review.

13 13. CDF is also required to conduct two review team meetings during the course of
14 interdisciplinary review. (Cal. Code of Regs., tit. 14, §1037.5 (g)(1) and (2).) An interdisciplinary
15 review team is required to be convened after the preharvest inspection and before the determination on
16 the plan by CDF, and the review team “shall meet to review all the information on the plan and develop
17 a recommendation” for CDF. (Cal. Code. Regs., tit. 14, §1037.5 (g)(2).) Review teams are open to
18 the public. (Cal. Code Regs., tit. 14, §1037.5 (d).) Notwithstanding this requirement, CDF has failed
19 to convene second review team meetings for interdisciplinary review of all information on timber harvest
20 plans proposed for operation within the geographic area of the jurisdiction of the Regional Board.

21 14. CDF is obligated by law to deny a timber harvest plan when the information contained
22 in the plan is insufficient to evaluate significant environmental effects. (Cal. Code Regs., tit. 14, §898.2
23 (c).) An interdisciplinary review team reviews the plan for its sufficiency in conformance with the rules.
24 The process must be complete, by law. The function of the interdisciplinary review team is to (a)
25 determine if the timber harvest plan conforms with the rules, and to (b) evaluate the potential

1 environmental impacts of timber operations, and to (c) assist CDF in the evaluation of timber operations
2 and their impacts on the environment. (Cal. Code of Regs., tit. 14, §1037.5 (b).) Therefore, the
3 review team must review each plan and all required agency reviews of the plan. (Cal. Code Regs., tit.
4 14, §1037.5 (g).) The interdisciplinary review team is then required to develop a plan
5 recommendation, which “shall be utilized in determining whether appropriate alternatives have been
6 selected and included in a plan and if the plan implementation would cause significant damage to natural
7 resources.” (Cal. Code Regs., tit. 14, §1037.5 (h).)

8 15. CDF’s failure to insure the participation of the Regional Board in the interdisciplinary
9 review team process for review of timber harvest plans located within the geographic area of the
10 Regional Board’s jurisdiction undermines and violates the statutory provision for interdisciplinary review
11 through timber plans. It prevents review of timber harvest plans to determine if they conform with the
12 rules, and it prevents the evaluation of the proposed timber harvest plans and their potential significant
13 environmental impacts. In such cases, the plans do not have sufficient information to evaluate the
14 significant environmental impacts.

15 **FIRST CAUSE OF ACTION**

16 **VIOLATIONS OF FOREST PRACTICE ACT**

17 16. Petitioner/Plaintiff incorporates by reference all preceding paragraphs.

18 17. CDF is obligated to insure that an interdisciplinary review team has had an opportunity
19 to review each plan. (Cal. Code Regs., tit. 14, §1037.4.)

20 18. The Regional Board is a State agency required to be part of the interdisciplinary review
21 team pursuant to Pub. Res. Code §4582.6 and Cal. Code of Regs., tit. 14, §1037.5.

22 19. CDF has prejudicially abused its discretion and not proceeded in a manner required by
23 law in that it has repeatedly and as a practice and on-going conduct, failed to insure that an
24 interdisciplinary review team with the participation of the Regional Board has had an opportunity to
25 review each timber harvest plan within the geographic area of the Regional Board’s jurisdiction.

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1 **SECOND CAUSE OF ACTION**

2 **VIOLATIONS OF FOREST PRACTICE ACT**

3 20. Petitioner/Plaintiff incorporates by reference all preceding paragraphs.

4 21. The Forest Practice Act of 1973 requires CDF to deny timber harvest plans when
5 there is insufficient information to evaluate the significant environmental effects of timber operations.
6 (Cal. Code Regs., tit. 14, §898.2 (c).)

7 22. The participation of the Regional Board, as a member of the interdisciplinary Review
8 Team agency, is necessary and required by law, so that sufficient information is available to evaluate the
9 significant environmental effects of timber operations.

10 23. CDF has prejudicially abused its discretion and not proceeded in a manner required by
11 law in that it has repeatedly and as a practice and on-going conduct, failed to insure that the Regional
12 Board as a member of the interdisciplinary team has had an opportunity to review each timber harvest
13 plan within the geographic area of the Regional Board's jurisdiction so as to have sufficient information
14 to evaluate the significant environmental effects of timber operations.

15 24. CDF has prejudicially abused its discretion and failed to proceed according to the law
16 in that it has repeatedly and as a practice and pattern of conduct, failed to deny timber harvest plans in
17 the geographic area of jurisdiction for the Regional Board which have had insufficient information to
18 evaluate significant environmental effects of timber operations.

19 **THIRD CAUSE OF ACTION**
20 **(DECLARATORY RELIEF)**

21 25. Petitioner/Plaintiff incorporates by reference all preceding paragraphs.

22 26. There is a present and actual existing controversy between Petitioner/Plaintiff and
23 Respondent/Defendant as to the legality of these practices which is of an on-going nature.
24 Petitioner/Plaintiff contends that CDF is (a) in violation of the law through its failure to insure
25 participation by the Regional Board in the interdisciplinary review team for review of plans within the

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1 geographic area of the Regional Board’s jurisdiction, as required by Cal. Code of Regs., tit. 14, §
2 1037.4, and that (b) the failure to insure the Regional Board’s participation in the review of timber
3 harvest plans results within the geographic area of the Regional Board’s jurisdiction, approvals of plans
4 for which there is insufficient information to evaluate the significant environmental effects of those plans’
5 operations, the approval of which is disallowed pursuant to Cal. Code Regs., tit. 14., §898.2(c).
6 Respondent/Defendant CDF contends that its conduct and repeated pattern of conduct is in accord
7 with the law. Petitioner/Plaintiff desires a judicial determination of the rights and obligations of the
8 respective parties and a declaration concerning the allegations of this complaint.

9 27. Such a declaration is necessary and appropriate at this time in order that
10 Petitioner/Plaintiff may ascertain the right to require Respondent/Defendant CDF to act in accordance
11 with the obligations under the Forest Practice Act to insure that the Regional Board participates in the
12 review of timber harvest plans in the within the geographic area of the Regional Board’s jurisdiction, as
13 a member of the interdisciplinary review team, and that plans must be denied if the review by the
14 Regional Board is not insured because the Regional Board’s participation is necessary to determine the
15 sufficiency of the plan information for evaluation of the environmental effects of the timber harvest plan
16 operations.

17 28. Unless restrained by this Court, Respondent/Defendant CDF will continue to review
18 and approve timber harvest plans within the geographic area of the Regional Board’s jurisdiction
19 without insuring participation for the review from the Regional Board, in violation of their obligation to
20 insure the Regional Board’s participation as a member of the interdisciplinary review team.

21 29. Said course of conduct by Respondent/Defendant CDF irreparably harms and will
22 continue to irreparably harm Petitioner/Plaintiff in that Respondent/Defendant's actions expose the
23 public timber resources of this State to continued environmental degradation, including damage and
24 threat of loss, due to the failure to fully evaluate and understand the environmental impacts of timber
25 operations.

1 30. Petitioner/Plaintiff has no adequate remedy in the ordinary course of law to obtain relief
2 from the consequences of said actions by Respondent/Defendant CDF.

3 **FOURTH CAUSE OF ACTION**

4 **(DECLARATORY RELIEF)**

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6 31. Petitioner/Plaintiff incorporates by reference all preceding paragraphs.

7 32. There is a present and actual existing controversy between Petitioner/Plaintiff and
8 Respondent/Defendant as to the legality of practices which is on-going and a matter of practice and
9 conduct. Petitioner/Plaintiff contends that CDF is in violation of the law because it has failed to
10 convene interdisciplinary review teams Respondent for plans within the geographic area of the
11 Regional Board’s jurisdiction after the preharvest inspection and before the determination on the plan
12 by CDF, so that the interdisciplinary review team shall meet to review “all the information on the plan”
13 and develop a recommendation” as required by Cal. Code. Regs., tit. 14, §1037.5 (g)(2).
14 Petitioner/Plaintiff further contends that CDF has failed to provide public access to review team
15 meetings for plans within the geographic area of the Regional Board’s jurisdiction, as required by Cal.
16 Code Regs., tit. 14, §1037.5 (d). Respondent contends that its conduct and repeated pattern of
17 conduct is in accord with the law. Petitioner/Plaintiff desires a judicial determination of the rights and
18 obligations of the respective parties and a declaration concerning the allegations of this complaint.

19 32. Such a declaration is necessary and appropriate at this time in order that
20 Petitioner/Plaintiff may ascertain the right to require Respondent/Defendant CDF to act in accordance
21 with the obligations under the Forest Practice Act to insure complete interdisciplinary review of all
22 information on timber harvest plans proposed for the geographic area within the Regional Board’
23 jurisdiction, so as to determine whether plans have information sufficient to evaluate significant
24 environmental effects of the plan.

1 33. Unless restrained by this Court, Respondent/Defendant CDF will continue to review
2 and approve timber harvest plans within the geographic area of the Regional Board's jurisdiction
3 without providing required interdisciplinary review of all information on the plan before a determination
4 is made by CDF on a timber harvest plan within the geographic area of the Regional Board's
5 jurisdiction.

6 34. Said course of conduct by Respondent/Defendant CDF irreparably harms and will
7 continue to irreparably harm Petitioner/Plaintiff in that Respondent/Defendant's actions expose the
8 public resources of this State to continued damage and threat of loss due to the failure to fully evaluate
9 and understand the environmental impacts of timber operations.

10 35. Petitioner/Plaintiff has no adequate remedy in the ordinary course of law to obtain relief
11 from the consequences of said actions by Respondent/Defendant CDF.

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13 **FIFTH CAUSE OF ACTION**
(DECLARATORY RELIEF)

14 36. Petitioner/Plaintiff incorporates by reference all preceding paragraphs.

15 37. There is a present and actual existing controversy between Petitioner/Plaintiff and
16 Respondent/Defendant as to the legality of these practices which is of on-going and a matter of
17 practice. Petitioner/Plaintiff contends that CDF is in violation of the law because it has failed to deny
18 plans within the geographic area of the Regional Board's jurisdiction when there is evidence of
19 insufficient review to meet statutory obligations, as required by Cal. Code of Regs., tit. 14, §898.2 (c)..
20 Due to the failure of CDF to insure the Regional Board's participation in the interdisciplinary review
21 team process for those plans, the information in the plans is insufficient to evaluate significant
22 environmental effects of the plan. Respondent contends that its conduct and repeated pattern of
23 conduct is in accord with the law. Petitioner/Plaintiff desires a judicial determination of the rights and
24 obligations of the respective parties and a declaration concerning the allegations of this complaint.

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1 38. Such a declaration is necessary and appropriate at this time in order that
2 Petitioner/Plaintiff may ascertain the right to require Respondent/Defendant CDF to act in accordance
3 with the obligations under the Forest Practice Act to insure participation from the Regional Board so as
4 to determine whether plans have information sufficient to evaluate significant environmental effects of the
5 plan.

6 39. Unless restrained by this Court, Respondent/Defendant CDF will continue to review
7 and approve timber harvest plans within the geographic area of the Regional Board's jurisdiction
8 without denying plans in the face of evidence that the information in the plans is insufficient to evaluate
9 significant environmental effects due to CDF's failure to insure participation for the review of each
10 timber harvest plan by the Regional Board.

11 40. Said course of conduct by Respondent/Defendant CDF irreparably harms and will
12 continue to irreparably harm Petitioner/Plaintiff in that Respondent/Defendant's actions expose the
13 public resources of this State to continued damage and threat of loss due to the failure to fully evaluate
14 and understand the environmental impacts of timber operations.

15 41. Petitioner/Plaintiff has no adequate remedy in the ordinary course of law to obtain relief
16 from the consequences of said actions by Respondent/Defendant CDF.

17 **SIXTH CAUSE OF ACTION**

18 **(INJUNCTIVE RELIEF)**

19 42. Petitioner/Plaintiff incorporates by reference all preceding paragraphs.

20 43. Petitioner/Plaintiff has no plain, speedy, or adequate remedy in the ordinary course of
21 law unless the Court grants this writ. Unless CDF is enjoined and restrained from approving timber
22 harvest plans within the geographic area of the Regional Board's jurisdiction, and unless CDF insures
23 the participation of the Regional Board in the interdisciplinary review team process for each timber
24 harvest plan, the environmental integrity of the forest resources, including recreation, watershed,

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1 wildlife, fisheries, and aesthetic enjoyment will be irreparably damaged, and damaged in a manner
2 contrary to California statutory law.

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4 **PRAYER FOR RELIEF**

5 WHEREFORE, Petitioner/Plaintiff prays as follows for:

6 1. A temporary restraining order and/or preliminary injunction restraining State
7 Respondent California Department of Forestry and Fire Protection from approval of any further timber
8 harvest plans within the geographic area of the Central Valley Regional Water Quality Control Board
9 jurisdiction unless and until it insures participation of the Central Valley Regional Water Quality Control
10 Board in the interdisciplinary review team process for each timber harvest within the geographic area
11 of the Central Valley Regional Water Quality Control Board jurisdiction;

12 2. Issuance of a writ of mandate requiring State Respondent California Department of
13 Forestry and Fire Protection to comply with its mandate under Cal. Code of Regs., tit. 14, §1037.4, to
14 insure the participation of the Central Valley Regional Water Quality Control Board in the
15 interdisciplinary review team process for each timber harvest located within the geographic area for
16 which the Central Valley Regional Water Quality Control Board is entitled to participate in the
17 interdisciplinary review of plans;

18 3. A declaratory judgment as to the illegality of the pattern and practice by State
19 Respondent California Department of Forestry and Fire Protection in the failure to insure participation
20 of the Central Valley Regional Water Quality Control Board in the interdisciplinary review team
21 process for review of each timber harvest plan within the geographic area of the Central Valley
22 Regional Water Quality Control Board's jurisdiction;

23 4. A declaratory judgment as to the illegality of the pattern and practice by State
24 Respondent California Department of Forestry and Fire Protection in the failure to convene and
25 conduct interdisciplinary review team meetings for plans within the geographic area of the Regional

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1 Board's jurisdiction after the preharvest inspection and before the determination on the plan by CDF,
2 so that the interdisciplinary review team shall meet to review "all the information on the plan" and
3 develop a recommendation" as required by Cal. Code. Regs., tit. 14, §1037.5 (g)(2). and to provide
4 public access to review team meetings for plans within the geographic area of the Regional Board's
5 jurisdiction, as required by Cal. Code Regs., tit. 14, §1037.5 (d);

6 5. A declaratory judgment as to the illegality of the pattern and practice by State
7 Respondent California Department of Forestry and Fire Protection for its failure to deny plans as
8 required by Cal. Code of Regs., tit. 14, §898.2 (c) because there is evidence by virtue of the failure to
9 insure participation of the Central Valley Regional Water Quality Control Board in the interdisciplinary
10 review team process for each plan within the geographic area of the Central Valley Regional Water
11 Quality Control Board's jurisdiction that the information in each plan is insufficient to evaluate significant
12 environmental effects of those plans;

13 6. Costs of suit and attorneys fees incurred pursuant to Code of Civil Procedure §1021.5,
14 and other provisions of law; and

15 7. Such other and further relief as the Court may deem proper.

16
17 Dated: May 1, 2002

18 Sharon E. Duggan

19 Daniel P. Meyer
20 Attorneys for Petitioner/Plaintiff

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1 VERIFICATION

2 I, SHARON E. DUGGAN

3 I am an attorney of record for the Petitioner/Plaintiff herein. I have read the foregoing Petition
4 for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and Attorneys' Fees, and
5 know its contents. The same is true of my own knowledge. I have personally reviewed and am familiar
6 with the files and records and proceedings described in and the subject of the present petition and
7 know the facts set forth in the petition to be true and correct. This Verification is signed by me rather
8 than by the Petitioner/Plaintiff, because I have my office in Berkeley, a different County than where the
9 Petitioner/Plaintiff exists, in Sacramento County, and its representatives are not able to sign the
10 verification.

11 I declare under penalty of perjury that the foregoing is true and correct and that this declaration
12 was executed on May 1, 2002 in Berkeley, California.

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16 SHARON E. DUGGAN
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