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October 07, 2014

County of San Diego
Planning and Development Services
c/o Mark Wardlaw, Director
5510 Overland Avenue
San Diego, CA 92123

Re: Infeasibility of the Los Robles Site as an Alternative Location to the Soitec Solar Development Project

Dear Director Wardlaw:

The Draft Programmatic Environmental Impact Report (DPEIR) for the Soitec Solar Development Project (Proposed Project) analyzes four alternatives to the Proposed Project that involve an alternative location known as the Los Robles site, located approximately 1 mile south of Interstate 8 and approximately 0.5 miles southwest of the community of Boulevard. (DPEIR, p. 4.0-27.) Alternatives 5 – 8 propose to reduce significant environmental impacts associated with the Proposed Project by moving varying portions of the Proposed Project to the Los Robles site. (Alternatives 5 through 8 hereafter referred to as the Los Robles alternatives.) (DPEIR, pp. 4.0-27 to 4.0-52.) In fact, the DPEIR concludes that Alternative 7 is the environmentally preferred alternative to the Proposed Project. (*Id.* at p. 4.0-56.)

I now write to inform you that the Los Robles site is no longer a feasible alternative location to the Proposed Project for Soitec Solar Development LLC (Soitec). This development results from three factors: (i) limited time remaining prior to deadlines outside of Soitec's control, (ii) unforeseen difficulties securing site control of the Los Robles site that have prevented Soitec from performing necessary site surveys and design work, and (iii) recognition that as a result of (i) and (ii), the Los Robles alternatives cannot fully achieve the goals and objectives established by the state of California in the Jobs and Economic Improvement Through Environmental Leadership Act of 2011, Public Resources Code Sections 21178 *et seq.* (AB 900).

Lack of Site Control Over the Los Robles Site

Soitec has been negotiating with the landowner of the Los Robles site since 2012. When the DPEIR was being developed, Soitec and the land owner were sufficiently close to executing a contract that would secure site control of the Los Robles properties that the land owner authorized Soitec to include the Los Robles property in the DPEIR as an alternative location to the Proposed Project.

Since that time, and despite diligent efforts, Soitec has been unable to finalize an agreement with the land owner on the Los Robles site for several reasons. These include a fundamental disagreement regarding whether Soitec must purchase over 4,000 acres, as opposed to only that portion of the property necessary to build any of the Los Robles alternatives. (*See* Attachment 1, Complaint for Damages, Declaratory Relief, Injunctive Relief, and Writ of Mandate (Lansing Complaint), San Diego Superior Court, Case No. 37-2014-00025797-CU-MC-CTL (August 1, 2014), ¶¶ 39, 77, 85).)[1] The purchase of the 4,000 acres burdens any of the Los Robles alternatives with costs that are not supportable by project economics. The negotiations have persisted so long that it is no longer economically and technically feasible to complete a Los Robles project, as explained below. Although negotiations are continuing, it appears unlikely that an agreement will be reached. Even if an agreement could be reached, there is no longer sufficient time to complete the site specific surveys and technical engineering and design work necessary, as explained below. Accordingly, Soitec does not possess site control over the Los Robles site, and no longer considers it likely that obtaining site control would leave a feasible amount of time to implement a project.

Technical and Economic Infeasibility

Lack of site control and access to the Los Robles site have prohibited Soitec from performing environmental and engineering surveys necessary to prepare and submit a Major Use Permit application for any of the Los Robles alternatives. Consequently, it is now impossible for any of the Los Robles alternatives to be analyzed, permitted, and constructed before January 1, 2017, when the 30% federal investment tax credit (ITC) for solar energy projects will be reduced to a 10% ITC. (26 U.S.C. § 48; http://energy.gov/savings/business-energy-investment-tax-credit-itc.)

Soitec has been actively engaged in permitting the Proposed Project since 2011. Based on that experience and on the environmental and engineering surveys that still need to be performed, Soitec conservatively estimates that it would take approximately eighteen months to two years to analyze and permit any of the Los Robles alternatives. Furthermore, Soitec estimates it would take approximately 12 months to construct any of the Los Robles alternatives, based on the estimated construction periods for the Rugged and Tierra del Sol Solar Farms. Therefore, at minimum, it would take 2.5 to 3 years to permit and construct Alternative 7, which results in an in-service date substantially later than December 31, 2016. This timeline does not include any time allocated for litigation.

The loss of the 30% ITC causes two significant economic disadvantages to solar energy projects, either one of which make solar energy projects uneconomic under current conditions.

First, a net 20% ITC reduction (from 30% to 10%) eliminates a vital *after-tax* subsidy that serves to offset the significant up-front capital cost of any project. In fact, the *loss* of a 20% capital cost

[1] The Lansing Complaint erroneously refers to Soitec as "Soltec."

subsidy equates to an *increase* of 28% in the capital cost of the project.[2] Equivalent *pre-tax* earnings (the only way to replace the ITC subsidy) are burdened by the federal income tax rate of 35%. Therefore, an *increase* of 28% in capital cost, combined with the federal income tax of 35% on project earnings that would otherwise be paid by an investor for the same *dollar* return, significantly reduce the *rate* of return from the project, and its corresponding economic feasibility.

Secondly, the average payback period for the investment in a solar energy project is lengthened by the 20% ITC reduction. Although the average payback period will vary from project to project, a 20% ITC reduction will extend the average payback period (defined as the time required to repay an investor the price he or she paid for an investment). This prolonged payback period equates to higher risk, even if all other factors remain the same.

An investor will need to offset the benefit lost due to the ITC reduction to restore the required rate of return and payback period. To do so, the investor must charge more for the power sold. Such an increase is not feasible on a competitive or regulatory basis, however, because utilities are offering lower, not higher, Power Purchase Agreement (PPA) payments, and it is speculative whether the California Public Utility Commission (CPUC) would approve higher PPA prices. Due to the competitive commodity-based pricing of renewable energy, replacement sources of alternative energy are simply more attractive; all other things being equal, capitalization will not be feasible, and a project unable to qualify for the 30% ITC will not proceed.

Furthermore, any existing PPA that has been negotiated assuming the benefits of the ITC would be economically infeasible to construct if the ITC were reduced.

As explained above, it is technically and economically infeasible to analyze, permit, and construct a project that includes the Los Robles site prior to January 1, 2017. Because the Los Robles alternatives cannot be in operation prior to January 1, 2017, they will not qualify for the 30% ITC and will be uneconomic to build. Accordingly, the Los Robles alternatives are economically infeasible.

Social Infeasibility – AB 900

The DPEIR identifies Alternative 7 as the environmentally preferred alternative. (DPEIR, pp. 55-57.) Alternative 7 would relocate the project-level Tierra del Sol Solar Farm, and the programmatic LanEast and LanWest Solar Farms, to the Los Robles site. (*Id.* at pp. 4.0-39 to 4.0-45.) For the reasons set forth above, Soitec has not prepared or submitted a Major Use Permit application to the County for any of the Los Robles alternatives. Accordingly, selecting Alternative 7 would mean that the Tierra del Sol Solar Farm would not be constructed and the jobs and economic investment planned for Tierra del Sol would not be realized, at minimum, for 2.5 to 3 years. (See the technical infeasibility discussion, above.) The Tierra del Sol Solar Farm is an AB 900 environmental leadership project certified by both the Governor and the Legislature. (Governor's Certification Granting Judicial Streamlining for the Soitec Solar

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[2] If a project's capital cost without the ITC is $100, a 30% ITC would reduce capital cost to $70, and a 10% ITC would reduce capital cost to $90. Accordingly, the increase in capital cost caused by the reduction in the ITC from 30% to 10% equals 28.57%. [(90-70)/70=28.57%]

Project in San Diego County (May 2012), *available at* http://www.sdcounty.ca.gov/pds/ceqa/Soitec-Documents/Record-Documents/2012-04-00-State-of-California-Governors-Certification-Granting-Judicial-Streamlining-for-Soitec-Solar-Projec.pdf.)

Soitec considers Alternative 7 to be socially infeasible, however, because it would fail to fully meet the goals and objectives of AB 900. AB 900 was enacted to help California recover from economic recession by accelerating investment and job creation in clean energy and other environmentally beneficial projects that would reduce greenhouse gas emissions. (Pub. Res. Code § 21178.) Section 21178(i) states: "[t]he purpose of this act is to provide unique and unprecedented streamlining benefits under the [CEQA] for projects that provide the benefits described above for a limited period of time to put people to work as soon as possible." (*Id.*) Arguably, energy projects that qualify under AB 900 are even more important now due to the decommissioning of the San Onofre Nuclear Generating Station (SONGS) and its 2,200 megawatts of electrical generation, and the increased pressure on alternative energy generation (of all types) to replace this source of electricity. (*See* http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M088/K978/88978845.PDF [CPUC decision seeking at least 575 MW of preferred resources to replace SONGS generation].)

Specifically, there are three shortcomings to Alternative 7 that would fail to meet AB 900's primary goals. First, proceeding with Alternative 7 would indefinitely postpone the approximately $200 million economic investment and construction and permanent jobs that would be created by the Tierra del Sol Solar Farm. (*See* Soitec Application for CEQA Streamlining Under AB 900 at p. 2 (December 21, 2012), *available at* http://opr.ca.gov/docs/SSEP-App.pdf.) First, as explained above, Alternative 7 could not be analyzed, permitted, and constructed for at minimum 2.5 to 3 years.

Second, a Los Robles alternative would not qualify for judicial streamlining under AB 900 (Pub. Res. Code § 21185) as the Tierra del Sol Solar Farm does. AB 900's litigation streamlining provisions require that any litigation before the Superior Court and Court of Appeal be completed within 270 days. (*Id.*) In contrast, any Los Robles alternative would be subject to standard CEQA litigation delays of approximately one year to 18 months for Superior Court litigation, and another one year to 18 months for appellate litigation. Any ability to realize the investment and employment benefits of the Tierra del Sol Solar Farm would be delayed for years, thereby failing to meet AB 900's mandate to "put people to work as soon as possible." (Pub. Res. Code § 21178(i).)

Third, because it would take eighteen months to two years to analyze and permit any of the Los Robles alternatives, no Los Robles alternative would qualify for treatment under AB 900, which requires project approval prior to January 1, 2016. (Pub. Res. Code § 21189.1.)

Conclusion

For the reasons explained above, the Los Robles alternatives are infeasible because Soitec lacks site control. Even if site control could be achieved, the Los Robles alternatives would still be economically, technologically, and socially infeasible. Accordingly, Alternatives 5 through 8 cannot be selected as the environmentally preferred alternative by the County because they all are demonstrably infeasible alternatives.

Thank you very much for your attention to this matter. If you have any questions about the contents of this letter, please contact Patrick Brown at Patrick.Brown@soitec.com or by phone at 619-733-2649.

Best Regards,

Clark Crawford

Clark Crawford,
VP Sales and Business Development

Enclosure

Attachment 1

Complaint for Damages, Declaratory Relief, Injunctive Relief, and Writ of Mandate, San Diego Superior Court, Case No. 37-2014-00025797-CU-MC-CTL (August 1, 2014)

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Attorney for Plaintiffs 569 EAST COUNTY BOULEVARD LLC, BOULEVARD EMPIRE LLC, LANSING INDUSTRIES PSP LLC, and 390 JACUMBA LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO – CENTRAL DIVISION

569 EAST COUNTY BOULEVARD LLC, BOULEVARD EMPIRE LLC, LANSING INDUSTRIES PSP LLC, and 390 JACUMBA LLC, Plaintiff, vs. COUNTY OF SAN DIEGO, BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO, ENDANGERED HABITAT LEAGUE, INC., DIANE JACOBS, MICHAEL BECK, DONNA TISDALE, BACKCOUNTRY AGAINST THE DUMP, INC. and PROTECT OUR COMMUNITIES FOUNDATION, INC., Defendants.	Case No.: 37-2014-00025797-CU-MC-CTL **COMPLAINT FOR DAMAGES, INJUNCTIVE RELIEF, DECLARATORY RELIEF AND WRIT OF MANDATE** Action Filed: Trial Date: Dept.: Judge:

Plaintiffs 569 EAST COUNTY BOULEVARD LLC, BOULEVARD EMPIRE LLC, LANSING INDUSTRIES PSP LLC, and 390 JACUMBA LLC (hereinafter collectively "LANSING" or "PLAINTIFFS") alleges against Defendants COUNTY OF SAN DIEGO, BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO, ENDANGERED

HABITAT LEAGUE, INC., DIANE JACOBS, MICHAEL BECK, DONNA TISDALE, BACKCOUNTRY AGAINST THE DUMP, INC. and PROTECT OUR COMMUNITIES FOUNDATION, INC. (hereinafter collectively "DEFENDANTS") and DOES 1 through 10 and each of them, as follows:

PARTIES

1. Plaintiff 569 EAST COUNTY BOULEVARD LLC is and at all times herein mentioned, a California limited liability company duly organized and existing under the laws of the State of California with its principal place of business in San Diego County whose activity includes land development and the development of master planned communities.

2. Plaintiff BOULEVARD EMPIRE LLC is and at all times herein mentioned, a California limited liability company duly organized and existing under the laws of the State of California whose activity includes land development and the development of master planned communities.

3. Plaintiff LANSING INDUSTRIES PSP LLC is and at all times herein mentioned, a California limited liability company duly organized and existing under the laws of the State of California with its principal place of business in San Diego County whose activity includes land development and the development of master planned communities.

4. Plaintiff 390 JACUMBA LLC is and at all times herein mentioned, a California limited liability company duly organized and existing under the laws of the State of California with its principal place of business in San Diego County whose activity includes land development and the development of master planned communities.

5. As parties beneficially interested in and aggrieved by the acts of DEFENDANTS as alleged herein, PLAINTIFFS and their agents participated in the administrative process leading up to and including approval and implementation of the General Plan Update (hereinafter "GPU") and objected to the inadequacies and inconsistencies of the finalized GPU. PLAINTIFFS therefore have a present and cognizable right to DEFENDANTS performance under the Government Code and California Constitution and damages thereon.

6. PLAINTIFFS are informed and believe that Defendant COUNTY OF SAN DIEGO (hereinafter individually, "COUNTY") is, and at all times herein mentioned was, a political subdivision of the State of California, duly organized and existing under and by virtue of the laws of the State of California. The COUNTY is the land use jurisdiction for decisions made under and pursuant to the Planning and Zoning Law.

7. PLAINTIFFS are informed and believe that Defendant COUNTY OF SAN DIEGO BOARD OF SUPERVISORS (hereinafter individually, "BOARD") is, and at all times herein mentioned was, the duly elected governing legislative body of the COUNTY, duly organized and existing under and by virtue of the laws of the State of California and the COUNTY rules and regulations, and the decision-maker responsible for the final approval of the GPU.

8. PLAINTIFFS are informed and believe that Defendant ENDANGERED HABITATS LEAGUE, INC. (hereinafter individually, "EHL") is, and at all times herein mentioned was, a non-profit California corporation duly organized and existing under the laws of the State of California with its principal place of business in Los Angeles, California.

9. PLAINTIFFS are informed and believe that Defendant DIANE JACOBS (hereinafter individually, "JACOBS") is, and at all times herein mentioned was, the duly elected supervisor for DISTRICT 2 of the BOARD and a resident of the COUNTY.

10. PLAINTIFFS are informed and believe that Defendant MICHAEL BECK (hereinafter individually, "BECK") is, and at all times herein mentioned was, appointed by JACOBS as the Chairman and representative for DISTRICT 2 on the San Diego County Planning Commission and is a resident of the COUNTY. PLAINTIFFS are also informed and believe that BECK concurrently is employed by EHL as San Diego Director of projects and programs and serves on the Board of Directors of EHL.

11. PLAINTIFFS are informed and believe that Defendant DONNA TISDALE (hereinafter individually, "TISDALE") is, and at all times herein mentioned was, President of the Boulevard Planning Group and a resident of the COUNTY.

12. PLAINTIFFS are informed and believe that Defendant PROTECT OUR COMMUNITIES FOUNDATION, INC. (hereinafter individually, "POCF") is, and at all times herein mentioned was, a non-profit California corporation duly organized and existing under the laws of the State of California with its principal place of business in Santa Ysabel, California.

13. PLAINTIFFS are informed and believe that Defendant BACKCOUNTRY AGAINST THE DUMP, INC. (hereinafter individually, "BAD") is, and at all times herein mentioned was, a non-profit California corporation duly organized and existing under the laws of the State of California with its principal place of business in Boulevard, California. TISDALE is the President of BAD.

14. PLAINTIFFS are not aware of the true names and capacities, whether individual, corporate, or otherwise, of Defendants DOES 1 through 10, inclusive, and therefore PLAINTIFFS sue them by such fictitious names. PLAINTIFFS are informed and believe and thereon allege that DOES 1 through 10 have been, or will be, responsible for the allegations in this Complaint.

JURISDICTION AND VENUE

15. This Superior Court of the County of San Diego has jurisdiction and authority and is the proper venue within which to file this action to address the issues raised in this Complaint, including to enjoin DEFENDANTS from further action, issue a writ of mandate to set aside the GPU and to compensate PLAINTIFFS for the damages suffered as a result of DEFENDANTS intentional wrongdoing.

GENERAL ALLEGATIONS

A. The General Plan Update

16. A draft General Plan Update (hereinafter "GPU") was released for public review in 2008. The COUNTY received comments from numerous state and local agencies, community planning groups, organizations, and individuals expressing concern regarding the potential inadequacies of the GPU.

17. The San Diego County Planning Commission, of which BECK was Chairman, held nine public hearings on the GPU from November 6, 2009 through August 20, 2010. An

agent of PLAINTIFFS attended the majority of these hearings. At the August 20, 2010 hearing, the Planning Commission made its final recommendation on the GPU to the BOARD.

18. The BOARD initially considered the GPU at its October 20, 2010 meeting. Hundreds of organizations and individual members of the public testified in person at the BOARD hearing, commenting on the GPU and expressing and reiterating concems about its legal adequacy. An agent of PLAINTIFFS attended and provided comments regarding legality of the GPU. The COUNTY continued the item to another hearing, on November 10, 2010.

19. At the November 10, 2010 hearing many individuals, businesses, coalitions and organizations, including an agent of PLAINTIFFS, provided additional comments on the GPU.

20. On November 15, 2010, an agent of PLAINTIFFS contacted the Planning Commission to request a property specific change to the draft GPU. That request was denied by Eric Gibson of the Department of Planning and Land Use.

21. The COUNTY once again continued the item to another hearing on December 8, 2010. At that hearing the COUNTY closed public testimony and did not provide another opportunity for public comment prior to approval of the GPU in August 2011.

22. Despite closing public testimony, the BOARD continued to hold multiple hearings on the proposed approval of the GPU, introduce evidence and testimony after the public hearings were closed and discuss new information about the GPU and associated approvals and properties impacted by it, including hearings on February 9, 2011, March 16, 2011, April 13, 2011 and August 3, 2011. Before the COUNTY'S approval of the GPU on August 3, 2011, the COUNTY revealed new information of substantial importance about the GPU and made substantial modifications to the GPU, yet the public was precluded from testifying as to any of those modifications.

23. At the hearing on August 3, 2011 in which the GPU was approved, the COUNTY proposed several additional substantial changes to the GPU which had never before been publicly disclosed. Included in those changes were new policies regarding the re-direction of population growth and new requirements for the authorization of GPU amendments. At no time were public comments allowed for these changes.

B. PLAINTIFFS' Property Acquisition

24. PLAINTIFFS acquired 2,280 acres known as Big Country Ranch on or around February 5, 2006 and 4,000 acres known as Empire Ranch on or around July 26, 2007. PLAINTIFFS acquired numerous additional parcels in the area (Mountain Empire, near Boulevard, California), totaling nearly 8,000 acres. These combined parcels are hereinafter referred to as the SUBJECT PROPERTIES. This occurred prior to the release of the draft GPU.

25. Prior to purchasing each of these parcels, PLAINTIFFS performed their due diligence and determined the parcels were zoned for the construction of one dwelling unit per four acres. Only after the purchase of said parcels were PLAINTIFFS informed by seller that COUNTY was considering a severe down-zoning of one dwelling unit per eighty acres.

26. In purchasing the parcels, PLAINTIFFS financed approximately $11 million and has paid in excess of $8 million.

27. The value of parcels, as originally zoned for one dwelling unit per four acres if developed with single family homes in a master developed community would have been in excess of $100 million. The current value of the parcels based on the radical down-zoning in the General Plan Update is estimated to be $3.5 million.

28. After acquiring Big Country Ranch and Empire Ranch, but prior to acquiring the other smaller parcels, an agent of PLAINTIFFS met with JACOBS to determine whether the SUBJECT PROPERTIES would be subject to the severe and radical down-zoning that was proposed in the draft GPU.

29. JACOBS informed PLAINTIFFS agent that the down-zoning was not a foregone conclusion, that she would only support it if the community members supported it and that her concern with keeping the then current designation of one dwelling unit per 4 acres was the lack of an adequate water supply.

30. PLAINTIFFS expended exceptional efforts to advise JACOBS of Boulevard community members' support of the then current zoning designation and their opposition to the severe down-zoning that was part of the draft GPU. More than 200 signatures in a community of

less than 400 were collected as part of a petition drive by PLAINTIFFS to show support for rejecting the proposed down-zoning.

31. PLAINTIFFS believe that additional community members would have signed the petition if not for fear of retaliation by TISDALE if it became public that they supported development in Boulevard.

32. In order to allay concerns of adequate water, PLAINTIFFS commissioned an independent study, incurring in excess of $100,000, to determine whether the region could support significant development. The study showed that there was an adequate water supply to support up to 6,000 homes on the SUBJECT PROPERTIES.

33. During this lobbying period and prior to approval of the GPU, PLAINTIFFS were approached by BECK, who showed interest in purchasing the SUBJECT PROPERTIES on behalf of EHL.

34. BECK requested several meetings to discuss the purchase, including a site visit at which he commented to an agent of PLAINTIFFS that he wanted to purchase the SUBJECT PROPERTIES in order to conserve the land.

35. After multiple meetings, PLAINTIFFS and BECK agreed upon a purchase price of $9 million and stated that he would seek the necessary funding from EHL. BECK never obtained the funding as it became unnecessary when the GPU was approved down-zoning the SUBJECT PROPERTIES so severely that they were constructively converted to an open space designation.

36. Further, during this lobbying period PLAINTIFFS came to understand that instead of JACOBS requesting her staff to prepare multiple density scenarios for the rural, unincorporated lands, including the SUBJECT PROPERTIES, as recommended in the State General Plan Guidelines, she instructed them to prepare only alternatives that included low density development.

37. Also during this lobbying period, TISDALE authored a letter, on behalf of BAD, that was distributed to the residents of Boulevard, California which characterized Gregory Lansing, an agent of PLAINTIFFS, as a "snake oil salesman" "bully boy" and "bad apple". The

letter also states that Lansing would direct PLAINTIFFS to sell their interests in the SUBJECT PROPERTY to construct a 2,200 bed federal prison, allow aggregate mining or "sell to the Indians next door", with absolutely no basis to make such allegations other than for the purpose of intimidating residents of Boulevard, California into supporting her no development agenda.

38. Despite PLAINTIFFS efforts to prevent the effective taking of their property rights, the GPU was approved in August 2011. Because of this severe down-zoning, the SUBJECT PROPERTIES were so severely de-valued that PLAINTIFFS were unable to make payments on their note and were forced into judicial foreclosure.

39. In an effort to recoup some of their investment, PLAINTIFFS sought to sell in excess of 4,000 acres of the SUBJECT PROPERTIES to Soltec Solar Development LLC (hereinafter "SOLTEC"), but ongoing, vexatious litigation by BAD, PFOC and TISDALE so destabilized the market for land development by alternative energy companies in the surrounding areas that PLAINTIFFS were unable to come to an agreement with SOLTEC.

FIRST CAUSE OF ACTION

(Violation of California Constitution, Article 2, Sections 8, 9, 10 and 11 as Against COUNTY, BOARD, JACOBS, BECK and TISDALE)

40. PLAINTIFFS repeat and re-allege each and every allegation contained in Paragraphs 1 through 39 of this Complaint and incorporate the same by reference, as though fully set forth herein.

41. The California Constitution, Article II, Sections 8 through 11 guarantee the people's rights to approve or reject measures passed by a legislative body as a power reserved by it under the California Constitution.

42. The GPU essentially puts in place the exact type of plan that the voters of San Diego County have already twice rejected as it relates to the unincorporated areas of the County. Specifically, it drastically reduces densities on more than 500,000 acres of privately-held land in the northern and eastern portions of the County and proposes high density villages in a few areas of the County, including in areas which other uses already exist and areas in which the water supply or other infrastructure to support such densities does not exist.

43. In 1998, eligible San Diego County residents voted on Measure B, the Rural Heritage & Watershed Initiative which would have downzoned 600,000 acres in eastern San Diego County from 4- and 8-acre lots to 40- and 80-acre lots. This measure was soundly defeated by the voters of San Diego County, with nearly 60% of voters deciding that 4- and 8-acre lots were appropriate for that region of the County.

44. In 2004, eligible San Diego County residents voted on a substantially similar ballot measure, Measure A, the Rural Lands Initiative which would have downzoned 694,000 acres in northern and eastern San Diego County from 4- and 8-acre lots to 40- and 80-acre lots in the Estate and Rural Development areas, respectively and from 4- and 8- acre lots to 40- and 160- acre lots in the Environmentally Constrained areas inside and outside the County Water Authority Boundary, respectively. This measure was soundly defeated by and even greater percentage of the voters of San Diego County, with nearly 65% of voters deciding that 4- and 8-acre lots were appropriate for that region of the County.

45. DEFENDANTS have actively and in direct contravention of the will of the San Diego County voters, implemented a general plan that is in all essential features like the two separate referendums that were already rejected.

46. As a direct and proximate result of the implementation of an invalid general plan, PLAINTIFFS have suffered general and special damages including, without limitation, emotional distress, expense incurred, lost earnings, lost profits and pecuniary loss, in an amount according to proof, but not less than $100,000,000.

47. Further, PLAINTIFFS request that this Court issue a preliminary and permanent injunction enjoining the COUNTY and BOARD from taking any action in furtherance of the GPU until it is amended to conform to the will of the voters of San Diego County as expressed in the defeat of two separate referendums.

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SECOND CAUSE OF ACTION

(Violation of California Planning and Zoning Law – Government Code Sections 65000, et seq. as Against COUNTY, BOARD, JACOBS, BECK and TISDALE)

48. PLAINTIFFS repeat and re-allege each and every allegation contained in Paragraphs 1 through 47 of this Complaint and incorporate the same by reference, as though fully set forth herein.

49. The COUNTY'S approval of the GPU constitutes an abuse of discretion in that the findings are not supported by substantial evidence in the record and the GPU fails to comply with the Planning and Zoning Law. Among other things, the findings are overbroad, inconsistent, internally inconsistent, lack support of substantial evidence and run afoul of later enacted statutes. The COUNTY'S approval of the Housing Element and subsequent update in 2013 constitutes a further abuse of discretion in that it is not in substantial compliance with the Housing Element Law and Least Cost Zoning Law and in its current form is impossible to implement.

50. The Housing Element requires local governments to be accountable for ensuring that projected housing needs can be accommodated while providing the opportunity for the private sector to meet market demand. These needs are reflected in the Regional Housing Needs Assessment ("RHNA") which is updated regularly to reflect the changing housing needs of the COUNTY.

51. The prior Housing Element period was from 2005 through 2011 and reflected a complete failure of the COUNTY to accommodate the low income housing needs to its citizens. Specifically, the COUNTY was assigned 2,476 new units of very low income housing; it created only 3% of that need; 1,881 new units of low income housing were assigned; the COUNTY created 18%; and 2,336 new units of moderate income housing were assigned; the COUNTY created 24%.

52. The 2013 Housing Element Update uses the same methodologies used by the COUNTY in the 2005-2011 period, which failed completely in accommodating very low, low and moderate income housing.

53. PLAINTIFFS are informed and believe, and based thereon allege, that it will be impossible for Defendant COUNTY to accommodate its allocated fair share of affordable housing during the 2010 through 2020 planning period due to the current state of zoning as determined by the GPU.

54. COUNTY was allocated 22,412 units for the planning period, 2,085 extremely and very low income units, 1,585 low income units, 5,864 moderate income units and 12,878 above moderate income units. Rather than accommodate the majority of these very low-, low- and moderate income units in vacant sites in the unincorporated communities, the COUNTY has concentrated them in sites which are already in some other use, which discourages the private sector to invest.

55. Some of the sites which COUNTY has identified as "underutilized" are currently occupied with uses that make them unavailable for development during the current planning period.

56. Further, some of the sites which COUNTY has identified as "underutilized" currently suffer from environmental constraints that affect their development potential because they are considered undesirable and expensive to develop by private sector investors.

57. PLAINTIFFS are informed and believe, and based thereon allege, that COUNTY arbitrarily determined that the unincorporated parts of the COUNTY should not be subject to the State Housing Element law establishing the minimum default densities for affordable housing development.

58. The Housing Element Update also assigns high density affordable units only to the Alpine, Fallbrook, Lakeside, North County Metro and Ramona communities in the unincorporated areas, without identifying why there was not a broader based fair share of distribution of low income housing.

59. The Mountain Empire, which includes the community of Boulevard, had a median income of less than 80% of the regional median, placing it in the low income bracket of COUNTY residents.

60. COUNTY assigned absolutely no affordable housing to the Mountain Empire region of the COUNTY even though it is a stated goal of the Housing Element to make affordable housing available in the areas where those citizens who most need it already live.

61. The actions of the COUNTY in adopting and implementing the GPU and its subsequent 2013 Housing Element Update are arbitrary, capricious and in excess of the COUNTY's jurisdiction and authority and contrary to the controlling law of the State of California.

62. As already described herein, PLAINTIFFS have exhausted all of their administrative remedies and to the extent it did not, any attempt would have been futile.

63. PLAINTIFFS have no plain, speedy or adequate remedy in the ordinary course of law to require the COUNTY to set aside the invalid GPU and to otherwise restrain the COUNTY from acting contrary to State law and to restrain the COUNTY from imposing the GPU on the SUBJECT PROPERTIES. PLAINTIFFS are thereby entitled to extraordinary relief by means of writ of mandate directing the COUNTY to set aside the GPU in order to conform to controlling law and the will of the voters of San Diego County.

THIRD CAUSE OF ACTION

(Unconstitutional Denial of Equal Protection and Due Process of Law as Against COUNTY, BOARD, JACOBS, BECK and TISDALE)

64. PLAINTIFFS repeat and re-allege each and every allegation contained in Paragraphs 1 through 63 of this Complaint and incorporate the same by reference, as though fully set forth herein.

65. The U.S. Constitution, Fourteenth Amendment, and the California Constitution, Article I, Section 7 guarantee PLAINTIFFS' rights to the equal protection of the laws and to due process of law.

66. The GPU unlawfully violates the constitutional guarantees to equal protection and due process of law by subjecting certain portions of the County, including the SUBJECT PROPERTIES, to additional layers of regulation and additional burdens such as the devaluation of property to reduce the potential for development and preserve private land as constructive

open space. The GPU applies selectively, unfairly and in an arbitrary and discriminatory manner, without a rational basis for selecting certain unincorporated portions of County lands to be subjected to such burdens. In addition, the GPU is not rationally related to a legitimate public purpose.

67. As a direct and proximate result of the implementation of an invalid general plan, PLAINTIFFS have suffered general and special damages including, without limitation, emotional distress, expense incurred, lost earnings, lost profits and pecuniary loss, in an amount according to proof, but not less than $100,000,000.

68. Further, PLAINTIFFS request that this Court issue a preliminary and permanent injunction enjoining the COUNTY, BOARD, JACOBS, BECK and TISDALE from taking any action in furtherance of the GPU until the COUNTY, BOARD, JACOBS, BECK and TISDALE has complied with all applicable laws and regulations, including the Housing Element Law, Least Cost Zoning Law and Political Reform Act.

FOURTH CAUSE OF ACTION

(Arbitrary, Unreasonable and Discriminatory Planning and Zoning as Against COUNTY, BOARD, JACOBS, BECK and TISDALE)

69. PLAINTIFFS repeat and re-allege each and every allegation contained in Paragraphs 1 through 68 of this Complaint and incorporate the same by reference, as though fully set forth herein.

70. The GPU results in a land use, planning and zoning designation on the SUBJECT PROPERTIES which is unreasonable, and as applied to the SUBJECT PROPERTIES, arbitrarily discriminates against PLAINTIFFS by attempting to create a constructive open space designation of the SUBJECT PROPERTIES and other privately-held rural land, purportedly for the benefit of the public at large. COUNTY, through the GPU, drastically and radically reduced the density of the land use designation of the SUBJECT PROPERTIES and other privately-held rural land, in part so that it could discourage or even preclude development and depress land values in an attempt to acquire the land at a significantly lower cost or preserve the land through a constructive open space designation.

71. The planning and zoning designations of the SUBJECT PROPERTIES resulting from the GPU are not reasonably related to the accomplishment of legitimate governmental interests in light of the surrounding land use designations, the existence of significant state, federal and Native American open spaces preserves and the physical characteristics of the SUBJECT PROPERTIES and other privately-held rural properties. The GPU imposes land use constraints on the SUBJECT PROPERTIES and other privately-held rural lands that would result in the impairment or deprivation of PLAINTIFFS' and other landowners' rights to make economically viable use of the property, and are unreasonable, arbitrary and discriminatory, in violation of State law and constitutional rights.

72. As a direct and proximate result of the implementation of an invalid general plan, PLAINTIFFS have suffered general and special damages including, without limitation, emotional distress, expense incurred, lost earnings, lost profits and pecuniary loss, in an amount according to proof, but not less than $$100,000,000.

73. Further, PLAINTIFFS request that this Court issue a preliminary and permanent injunction enjoining the COUNTY, BOARD, JACOBS, BECK and TISDALE from taking any action in furtherance of the GPU until the COUNTY, BOARD, JACOBS, BECK and TISDALE has complied with all applicable laws and regulations, including the Housing Element Law, Least Cost Zoning Law and Political Reform Act.

FIFTH CAUSE OF ACTION

(Fraud – Intentional Misrepresentation as Against COUNTY, BOARD, JACOBS, BECK and TISDALE)

74. PLAINTIFFS repeat and re-allege each and every allegation contained in Paragraphs 1 through 73 of this Complaint and incorporate the same by reference, as though fully set forth herein.

75. PLAINTIFFS are informed and believe and thereon allege that COUNTY, BOARD, JACOBS, BECK and TISDALE knowingly made false representations to PLAINTIFFS. Specifically, JACOBS informed an agent of PLAINTIFFS in 20__ that the down-zoning of the SUBJECT PROPERTIES was not a foregone conclusion and that higher density

alternatives would be proposed in accord with State general plan guidelines. However, JACOBS knew these alternatives would never be proposed and instructed her staff and BECK to include only a low density option which would down-zone the SUBJECT PROPERTIES from one dwelling unit per four acres to one dwelling unit per eighty acres.

76. Further, PLAINTIFFS are informed and believe and thereon allege that JACOBS and TISDALE informed PLAINTIFFS in 2010 that their objections to keeping the one dwelling unit per four acre designation arose from concerns that there was an inadequate water supply and that if adequate water was found, they would support keeping the one dwelling unit per four acre designation. However, JACOBS and TISDALE knew they would oppose keeping the one dwelling unit per four acres designation regardless of the presence of an adequate water supply.

77. Further, PLAINTIFFS are informed and believe and thereon allege that BECK approached an agent of PLAINTIFFS and indicated his desire to purchase the SUBJECT PROPERTIES on behalf of EHL. BECK requested several meetings with PLAINTIFFS, including a tour of the SUBJECT PROPERTIES wherein he stated his desire to use the site for conservation. BECK agreed to purchase the SUBJECT PROPERTIES to forestall PLAINTIFFS from selling to potential buyer SOLTEC, knowing that he would never need to purchase them because he, JACOBS and TISDALE planned to implement the radical down-zoning that would make the property valueless for development. Without value for development, the SUBJECT PROPERTIES were constructively re-zoned as open space.

78. PLAINTIFFS are informed and believe and thereon allege that COUNTY, BOARD, JACOBS, BECK and TISDALE made these knowingly false representations with the intent to deceive PLAINTIFFS and induce them to refrain from any further lobbying to keep the previous general plan's zoning of one dwelling unit per four acres so that the SUBJECT PROPERTIES could be constructively preserved as open space.

79. PLAINTIFFS acted in justifiable reliance upon the truth of these representations by refraining from requesting a general plan amendment, refraining from selling the SUBJECT PROPERTIES and paying for an independent water study to determine whether there was an

adequate water supply to support development at the SUBJECT PROPERTIES, incurring in excess of $100,000 for the study.

80. PLAINTIFFS, at the time these representations were made, were ignorant of their falsity and believed them to be true. PLAINTIFFS acted in justifiable reliance upon the truth of the representations because PLAINTIFFS believed the COUNTY, BOARD, JACOBS, BECK, and TISDALE were the administrative agents responsible for drafting, approving and implementing the GPU and believed them to be working for the interest of the general public rather than their own self interests.

81. As a direct and proximate result of COUNTY, BOARD, JACOBS, BECK and TISDALE'S fraud and deceit and the facts herein alleged, PLAINTIFFS have suffered general and special damages including, without limitation, emotional distress, expense incurred, lost earnings, lost profits and pecuniary loss, in an amount according to proof, but not less than $100,000,000.

82. PLAINTIFFS are informed and believe and thereon allege that in engaging in the conduct alleged herein, COUNTY, BOARD, JACOBS, BECK and TISDALE acted with the intent to injure PLAINTIFFS and intentionally misrepresented and concealed facts with the intention of depriving PLAINTIFFS of their legal rights and to gain financially. As a result of the foregoing, PLAINTIFFS are entitled to exemplary and punitive damages against COUNTY, BOARD, JACOBS, BECK and TISDALE, joint and severally.

SIXTH CAUSE OF ACTION

(Negligent Misrepresentation, in the Alternative, as Against COUNTY, BOARD, JACOBS, BECK and TISDALE)

83. PLAINTIFFS repeat and re-allege each and every allegation contained in Paragraphs 1 through 82 of this Complaint and incorporate the same by reference, as though fully set forth herein.

84. PLAINTIFFS are informed and believe and thereon allege that JACOBS knew or should have known that no alternative higher density zoning option would be presented to the COUNTY and/or BOARD for inclusion in the Mountain Empire Community Plan effecting the

SUBJECT PROPERTIES and that JACOBS and TISDALE knew or should have known that the presence of a water study showing an adequate water supply to support the higher density zoning would be irrelevant to their decision that the Mountain Empire Community Plan incorporate solely low density zoning that would effectively create a constructive open space zoning designation for the SUBJECT PROPERTIES.

85. Further, PLAINTIFFS are informed and believe and thereon allege that BECK knew or should have known that EHL was incapable of purchasing the SUBJECT PROPERTIES and that his representation to PLAINTIFFS that EHL would purchase them would prevent PLAINTIFFS from selling to potential buyer SOLTEC.

86. PLAINTIFFS acted in justifiable reliance upon the truth of these representations by refraining from requesting a general plan amendment, refraining from selling the SUBJECT PROPERTIES and paying for an independent water study to determine whether there was an adequate water supply to support development at the SUBJECT PROPERTIES, incurring in excess of $100,000 for the study.

87. PLAINTIFFS, at the time these representations were made, were ignorant of their falsity and believed them to be true. PLAINTIFFS acted in justifiable reliance upon the truth of the representations because PLAINTIFFS believed the COUNTY, BOARD, JACOBS, BECK, and TISDALE were the administrative agents responsible for drafting, approving and implementing the GPU and believed them to be working for the interest of the general public rather than their own self interests.

88. As a direct and proximate result of COUNTY, BOARD, JACOBS, BECK and TISDALE'S negligent misrepresentations and the facts herein alleged, PLAINTIFFS have suffered general and special damages including, without limitation, emotional distress, expense incurred, lost earnings, lost profits and pecuniary loss, in an amount according to proof, but not less than $100,000,000.

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SEVENTH CAUSE OF ACTION

(Unlawful Interference with Prospective Business Advantage as Against BECK, EHL, TISDALE, BAD and POCF)

89. PLAINTIFFS repeat and re-allege each and every allegation contained in Paragraphs 1 through 88 of this Complaint and incorporate the same by reference, as though fully set forth herein.

90. PLAINTIFFS were in an economic relationship with Soltec Solar Industries LLC which would have resulted in an economic benefit to PLAINTIFFS.

91. PLAINTIFFS are informed and believe and thereon allege BECK, EHL, TISDALE, BAD and POCF knew or should have known that PLAINTIFFS were in an economic relationship with Soltec Solar Industries LLC.

92. PLAINTIFFS are informed and believe and thereon allege BECK and EHL sought to disrupt the economic relationship between PLAINTIFFS and Soltec Solar Industries, LLC by engaging in wrongful conduct by creating a conspiracy that would create an unstable environment for an alternative energy company like Soltec Solar Industries LLC to develop through numerous lawsuits against similar companies and inducing PLAINTIFFS not to sell the SUBJECT PROPERTIES for a long enough period that the prospective business advantage would be lost.

93. Partially as a result of this wrongful conduct, the relationship between PLAINTIFFS and SOLTEC was disrupted and harmed.

94. PLAINTIFFS are informed and believe and thereon allege that in engaging in the conduct alleged herein, BECK, EHL, TISDALE, BAD and POCF acted with the intent to injure PLAINTIFFS and intentionally interfered with PLAINTIFFS' business dealings with the intention of depriving PLAINTIFFS of their legal rights and to gain financially. As a result of the foregoing, PLAINTIFFS are entitled to exemplary and punitive damages against BECK, EHL, TISDALE, BAD and POCF, joint and severally.

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EIGHTH CAUSE OF ACTION

(Violation of Government Code Sections 87100, et seq. as against BECK and TISDALE)

95. PLAINTIFFS repeat and re-allege each and every allegation contained in Paragraphs 1 through 94, inclusive, of this Complaint and incorporates the same by reference, as though fully set forth herein.

96. PLAINTIFFS are informed and believe and thereon allege BECK was and at all times mentioned herein, the Chairman of the San Diego County Planning Commission responsible for drafting and implementing the GPU. While in this position, BECK participated in and influenced decisions as to the revisions of the prior general plan and development of the new general plan.

97. Chairman is a public position of the local San Diego County government.

98. PLAINTIFFS are informed and believe and thereon allege BECK was and at all times mentioned herein, an employee of EHL (San Diego Director of Projects and Programs), serves on the Board of Directors of EHL and receives compensation from EHL, thus has a financial interest in EHL.

99. PLAINTIFFS are informed and believe and thereon allege BECK never disclosed his financial interest in EHL and never recused himself from any decision, vote or discussion on the GPU.

100. PLAINTIFFS are informed and believe and thereon allege TISDALE was and at all times mentioned herein, President of the Boulevard Planning Group, a quasi-governmental agency responsible for developing and implementing the policies and goals of the Community Plan for the Mountain Empire and the community of Boulevard which are incorporated into the GPU.

101. President of the Boulevard Planning Group is a public position of the local San Diego County government.

102. While serving as this public official, TISDALE dominated the Boulevard Planning Group, ignoring requests from Boulevard residents to incorporate higher density land

use designations into the Community Plan, failing to consider alternative groundwater resource evaluations and intimidating residents of Boulevard into her vision of the Community Plan.

103. PLAINTIFFS are informed and believe and thereon allege TISDALE has and had at all times mentioned herein, a real property interest in two parcels in Boulevard that would be materially impacted by the implementation of her version of the Community Plan as incorporated into the GPU.

104. PLAINTIFFS are informed and believe and thereon allege TISDALE never disclosed this financial interest and never recused herself from any vote or discussion on the Community Plan. To the contrary, TISDALE dominated all discussion of the Community Plan and its implementation into the GPU with little regard for other members of the Boulevard Planning Group or community members who voiced opposition to the same.

105. As a direct and proximate result of BECK'S and TISDALE'S desire to financially gain from their positions as public officials, PLAINTIFFS have suffered general and special damages including, without limitation, emotional distress, expense incurred, lost earnings, lost profits and pecuniary loss, in an amount according to proof, but not less than $100,000,000.

106. PLAINTIFFS are informed and believe and thereon allege that in engaging in the conduct alleged herein, BECK and TISDALE acted with the intent to injure PLAINTIFFS and intentionally misrepresented and concealed facts with the intention of depriving PLAINTIFFS of their legal rights and to gain financially. As a result of the foregoing, PLAINTIFFS are entitled to exemplary and punitive damages against BECK and TISDALE, joint and severally.

<u>NINTH CAUSE OF ACTION</u>

(Injunctive Relief as Against COUNTY, BOARD, JACOBS, BECK and TISDALE)

107. PLAINTIFFS repeat and re-allege each and every allegation contained in Paragraphs 1 through 106 of this Complaint and incorporate the same by reference, as though fully set forth herein.

108. PLAINTIFFS bring this action because PLAINTIFFS and the general public will suffer irreparable injury if the COUNTY, BOARD, JACOBS, BECK and TISDALE'S actions are not immediately set aside. The COUNTY has approved the GPU, radically devaluing the

SUBJECT PROPERTIES, run afoul of the State's Housing Element Law, Least Cost Zoning Law and Political Reform Act and enriched BECK and TISDALE. If the COUNTY, BOARD, JACOBS, BECK and TISDALE are not immediately enjoined and stayed from taking further actions to carry out the GPU, pending resolution of this lawsuit on its merits, PLAINTIFFS and the general public will be irreparably harmed and forced to incur further considerable damages. The public interest warrants the issuance of a writ of mandate, and the preliminary and permanent injunctions requested by PLAINTIFFS.

109. PLAINTIFFS have no adequate remedy at law for the injuries alleged herein in that PLAINTIFFS have exhausted all administrative remedies, or to do so would be futile, and damages cannot compensate for the threat that the GPU poses to PLAINTIFFS and the general public.

110. PLAINTIFFS request that this Court issue a preliminary and permanent injunction enjoining the COUNTY, BOARD, JACOBS, BECK and TISDALE from taking any action in furtherance of the GPU until the COUNTY, BOARD, JACOBS, BECK and TISDALE has complied with all applicable laws and regulations, including the Housing Element Law, Least Cost Zoning Law and Political Reform Act.

TENTH CAUSE OF ACTION

(Declaratory Relief as Against COUNTY, BOARD, JACOBS, BECK and TISDALE)

111. PLAINTIFFS repeat and re-allege each and every allegation contained in Paragraphs 1 through 110 of this Complaint and incorporate the same by reference, as though fully set forth herein.

112. An actual controversy has arisen and now exists between PLAINTIFFS and COUNTY, BOARD, JACOBS, BECK and TISDALE. PLAINTIFFS contend COUNTY, BOARD, JACOBS, BECK and TISDALE have not complied with the provisions of the Planning and Zoning Law, Housing Element Law, Least Cost Zoning Law and Political Reform Act in drafting, approving and implementing the GPU.

113. PLAINTIFFS are informed and believe and on that basis allege that the COUNTY, BOARD, JACOBS, BECK and TISDALE dispute the contentions of PLAINTIFFS.

114. PLAINTIFFS seek a judicial declaration and determination of the respective rights and duties of COUNTY, BOARD, JACOBS, BECK and TISDALE to abide by its duties and obligations to PLAINTIFFS and the general public.

115. A judicial declaration and determination is necessary and appropriate at this time in order for PLAINTIFFS to ascertain their rights with respect to the duties and obligations of COUNTY, BOARD, JACOBS, BECK and TISDALE in order to resolve all controversies between the parties hereto regarding such rights and duties.

ELEVENTH CAUSE OF ACTION

(Inverse Condemnation as Against COUNTY)

116. PLAINTIFFS repeat and re-allege each and every allegation contained in Paragraphs 1 through 115 of this Complaint and incorporate the same by reference, as though fully set forth herein.

117. PLAINTIFFS purchased the SUBJECT PROPERTIES with the understanding that they were zoned for one dwelling unit per four acres. Due diligence was conducted and PLAINTIFFS were assured this was the land use designation for the SUBJECT PROPERTIES. The ability to develop the property at that density was a prime factor in PLAINTIFFS acquiring the SUBJECT PROPERTIES.

118. In down-zoning the SUBJECT PROPERTIES from one dwelling unit per acre to one dwelling unit per eighty acres, COUNTY, BOARD, JACOBS, BECK and TISDALE did not take into account the financial impact that radical down-zoning would have on PLAINTIFFS who purchased the SUBJECT PROPERTIES as an investment opportunity under the impression the higher density zoning would remain in place.

119. PLAINTIFFS are informed and believe and on that basis allege that the COUNTY, BOARD, JACOBS, BECK and TISDALE purposefully conspired to down-zone the SUBJECT PROPERTIES in an effort to create a constructive open space and deny PLAINTIFFS the value of their SUBJECT PROPERTIES and investment thereon.

120. The new lower density zoning has completely de-valued PLAINTIFFS investment in the SUBJECT PROPERTIES and divested PLAINTIFFS of any economically viable use of the SUBJECT PROPERTIES.

121. At all relevant times during the course of drafting and approval of the GPU and inclusive down-zoning, PLAINTIFFS attempted in good faith to work with COUNTY, BOARD, JACOBS, BECK and TISDALE to seek a continuation of the old high density zoning or obtain an amendment to the GPU that would allow the SUBJECT PROPERTIES to keep the higher density zoning that made the SUBJECT PROPERTIES attractive for investment and development when they were purchased.

122. COUNTY has thus far refused to accept any amendment to the GPU that would allow a return to the previous higher density zoning of the SUBJECT PROPERTIES.

123. PLAINTIFFS have exhausted all of its administrative remedies and to the extent it purportedly did not, any attempt would have been futile.

124. As a direct and proximate result of COUNTY, BOARD, JACOBS, BECK and TISDALE'S coerced and unconstitutional taking of PLAINTIFFS' SUBJECT PROPERTIES and BECK'S and TISDALE'S desire to financially gain from their positions as public officials, PLAINTIFFS have suffered general and special damages including, without limitation, emotional distress, expense incurred, lost earnings, lost profits and pecuniary loss, in an amount according to proof, but not less than $100,000,000.

PRAYER FOR RELIEF

On The First Cause of Action

1. For General and Special damages in an amount to be proven at trial, but no less than $100,000,000.

2. For a preliminary and permanent injunction enjoining COUNTY from any further action under the GPU.

3. For a writ of mandate.

On The Second Cause of Action

4. For a writ of mandate.

On The Third Cause of Action

5. For general and special damages in an amount to be proven at trial, but no less than $100,000,000.

6. For a preliminary and permanent injunction enjoining COUNTY from any further action under the GPU.

On The Fourth Cause of Action

7. For general and special damages in an amount to be proven at trial, but no less than $100,000,000.

8. For a preliminary and permanent injunction enjoining COUNTY from any further action under the GPU.

On The Fifth Cause of Action

9. For general and special damages in an amount to be proven at trial, but no less than $100,000,000.

10. For punitive and exemplary damages.

On The Sixth Cause of Action

11. For general and special damages in an amount to be proven at trial, but no less than $100,000,000.

On The Seventh Cause of Action

12. For general and special damages in an amount to be proven at trial, but no less than $100,000,000.

On The Eighth Cause of Action

13. For general and special damages in an amount to be proven at trial, but no less than $100,000,000.

14. For punitive and exemplary damages.

On The Ninth Cause of Action

15. For a preliminary and permanent injunction enjoining COUNTY from any further action under the GPU.

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On The Tenth Cause of Action

16. For a declaration that the COUNTY has not complied with the requirements of the Planning and Zoning Law with respect to the failure to prepare an adequate general plan and that the COUNTY prepare an adequate general plan that meets the necessary requirements.

On The Eleventh Cause of Action

17. For general and special damages in an amount to be proven at trial, but no less than $100,000,000.

On All Causes of Action

18. For an award of attorneys' fees in an amount determined by the Court to be reasonable.

19. For an award of PLAINTIFFS' costs of suit incurred herein.

20. For such other and further relief as the Court deems just and proper.

DATED: August 1, 2014

Respectfully submitted,

By: ________________________

Mark Clairmont, Esq.
Paul W. Pitingaro, Esq.
Attorney for Plaintiffs,
569 EAST COUNTY BOULEVARD LLC,
BOULEVARD EMPIRE LLC,
LANSING INDUSTRIES PSP LLC, and
390 JACUMBA LLC