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 Tom Pappas, Tim Behunin, Trustee of the Behunin  
 Family Trust, Patrick L. Connelly, The Hollister Ranch  
 Cooperative, and the Hollister Ranch Owners'  
 Association

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

ANACAPA DIVISION

TOM PAPPAS, individually and all others similarly  
 situated, TIM BEHUNIN, Trustee of the Behunin  
 Family Trust and PATRICK L. CONNELLY,  
 individually and all others similarly situated, THE  
 HOLLISTER RANCH COOPERATIVE, a California  
 non-profit agricultural cooperative association, and the  
 HOLLISTER RANCH OWNERS' ASSOCIATION, a  
 non-profit mutual benefit corporation,

Plaintiffs and Petitioners,

v.

STATE OF CALIFORNIA, a public entity,  
 CALIFORNIA COASTAL CONSERVANCY, an  
 agency of the State of California, CALIFORNIA  
 COASTAL COMMISSION, an agency of the State of  
 California,

Defendant and Respondents.

COUNTY OF SANTA BARBARA, a political  
 subdivision of the State of California, and ALL  
 PERSONS UNKNOWN, CLAIMING ANY LEGAL  
 OR EQUITABLE RIGHT, TITLE, ESTATE, LIEN,  
 OR INTEREST IN THE PROPERTY DESCRIBED  
 IN THE COMPLAINT ADVERSE TO PLAINTIFFS'  
 TITLE, OR ANY CLOUD ON PLAINTIFFS' TITLE  
 THERETO, and Does 1-100, Inclusive,

Defendants.

**FILED**  
 SUPERIOR COURT of CALIFORNIA  
 COUNTY of SANTA BARBARA

MAY 31 2013

GARY M. BLAIR, Executive Officer

BY

*Merilee A. Jay*  
 Merilee A. Jay, Deputy Clerk

Case No. 1417388

CLASS ACTION

VERIFIED COMPLAINT FOR  
 QUIET TITLE, DECLARATORY  
 AND INJUNCTIVE RELIEF,  
 PETITION FOR WRIT OF  
 MANDATE AND OTHER RELIEF

COME NOW Tom Pappas, individually and all others similarly situated, Tim Behunin, Trustee of the Behunin Family Trust, and Patrick L. Connelly, individually and all others similarly situated, The Hollister Ranch Cooperative, and the Hollister Ranch Owners' Association, and allege:

1. This is an action by the owners of property in Hollister Ranch for quiet title and other relief to determine the extent, if any, to which the State might have obtained a right to use Plaintiffs/Petitioners' properties under a "Certificate of Acceptance," recorded by the Coastal Commission on April 26, 2013 ("Certificate"). The State's acts described herein are inconsistent with the special provisions that the Legislature enacted to enable state agencies to acquire public access to Hollister Ranch. The Legislature recognized that the Hollister Ranch roads and beach are held as Common Area by all of the owners, and that individual owners do not have the legal authority to grant public access easements (Pub. Res. Code, sec. 30610.3, subd. (a)). Therefore, in 1982, the Legislature expressly authorized the Commission to charge an "in-lieu fee" of \$5,000 for each coastal development permit issued for a Hollister Ranch parcel to enable the Conservancy to purchase public access easements (secs. 30610.8 and 30610.3, subd. (c)). Since 1982, the Coastal Commission has routinely collected the \$5,000 fee for each coastal development permit issued to Hollister Ranch property owners.

2. On April 26, 2013, the State sidestepped this statutory mandate and, rather than purchasing public access easements as contemplated by the statute, it recorded a "Certificate" which purports to "accept" an offer to dedicate public access easements made by someone who did not have the legal authority to grant them. The Certificate attempts to create easements within easements – the legal impossibility which caused the Legislature to enact the "in-lieu" fee program.

3. The State has forced Plaintiffs/Petitioners to bring this action to have the court determine what rights, if any, flow from the recordation of the Certificate. The State claims that the result is to provide the public with access over Plaintiffs/Petitioners' properties. Plaintiffs/Petitioners claim the result provides no right of access to any Defendant/Respondent.

1 Plaintiffs/Petitioners come before the court to secure a determination of the respective rights of  
2 the parties.

3 **PARTIES**

4 4. Plaintiff/Petitioner Tom Pappas ("Pappas") is the owner of the real property  
5 described as Parcel 77 of Parcel Map of the Hollister Ranch Phase II, in the County of Santa  
6 Barbara, State of California, as shown on Map recorded in Book 9, Pages 9 through 17, inclusive,  
7 of Parcel Maps, in the Office of the County Recorder of Said County. Plaintiff/Petitioner Pappas  
8 brings this action individually and on behalf of the owners of the Hollister Ranch properties  
9 included in the Class, as the Class is defined below.

10 5. Plaintiff/Petitioner Tim Behunin, Trustee of the Behunin Family Trust  
11 ("Behunin") is the owner of the real property described as Parcel 103 of Parcel Map of the  
12 Hollister Ranch Phase II, in the County of Santa Barbara, State of California, as shown on Map  
13 recorded in Book 9, Pages 9 through 17, inclusive of Parcel Maps, in the Office of the County  
14 Recorder of Said County.

15 6. Plaintiff/Petitioner Connelly is the owner of the real property described as Parcel  
16 105 of Parcel Map of the Hollister Ranch Phase III, in the County of Santa Barbara, State of  
17 California, as shown on Map recorded in Book 9, Pages 32 through 39, inclusive, of Parcel Maps,  
18 in the Office of the County Recorder of Said County.

19 7. Plaintiffs/Petitioners Behunin and Connelly bring this action individually and on  
20 behalf of the owners of the Hollister Ranch properties included in Subclass 1, as that Subclass is  
21 defined below.

22 8. Plaintiffs/Petitioners excluded from the Class the owner of that property  
23 commonly referred to as Parcel 136 of the Hollister Ranch, and also bearing APN 83-700-032  
24 (hereafter Parcel 136). The owner of Parcel 136 is the successor in interest to the entity that  
25 executed the purported offer to dedicate.

26 9. Plaintiff/Petitioner The Hollister Ranch Cooperative ("Cooperative") is a  
27 California non-profit agricultural cooperative association, organized pursuant to the provisions of  
28 Chapter 1 of Division 20 of the Food and Agricultural Code of California. The Cooperative holds  
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1 various property rights within the Ranch, including but not limited to grazing rights on Parcel 70,  
2 Parcel 49 and Parcel 104, described below, and the right to use the beach and road common areas  
3 within Hollister Ranch. The Cooperative was established in 1974 and raises cattle, including  
4 overseeing grazing on all of Hollister Ranch.

5 10. Plaintiff/Petitioner Hollister Ranch Owners' Association ("HROA") is a non-profit  
6 mutual benefit corporation. Plaintiff/Petitioner HROA brings this action as fee owner of the real  
7 properties described as: (a) Parcel 49 of Parcel Map of the Hollister Ranch Phase I, in the County  
8 of Santa Barbara, State of California, as shown on Map recorded in Book 8, Pages 45 through 57,  
9 inclusive, of Parcel Maps, in the Office of the County Recorder of Said County, and (b) Parcel  
10 104 of Parcel Map of the Hollister Ranch Phase II, in the County of Santa Barbara, State of  
11 California, as shown on Map recorded in Book 9, Pages 9 through 17, inclusive, of Parcel Maps,  
12 in the Office of the County Recorder of Said County. These parcels are sometimes referred to  
13 collectively herein as "the HROA Beach Parcels."

14 11. Plaintiff/Petitioner HROA is also the owner of the real property described as  
15 Parcel 70 of Parcel Map of the Hollister Ranch Phase II, in the County of Santa Barbara, State of  
16 California, as shown on Map recorded in Book 9, Pages 9 through 17, inclusive, of Parcel Maps,  
17 in the Office of the County Recorder of said County ("HROA Facilities Parcel"), along with  
18 various easements appurtenant thereto, including a non-exclusive easement to use the Ranch  
19 roads.

20 12. Defendant/Respondent STATE OF CALIFORNIA ("State") is a public entity.

21 13. Defendant/Respondent CALIFORNIA COASTAL COMMISSION  
22 ("Commission") is an agency of Defendant/Respondent State.

23 14. Defendant/Respondent CALIFORNIA COASTAL CONSERVANCY  
24 (Conservancy) is an agency of Defendant/Respondent State.

25 15. Defendant COUNTY OF SANTA BARBARA is a political subdivision of the  
26 State of California.

27 16. Plaintiffs/Petitioners do not know the exact names, capacities, or interests of  
28 defendants in the properties which are the subject of this action, which Plaintiffs/Petitioners

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1 designate as "all persons unknown, claiming any legal or equitable right, title, estate, lien, or  
2 interest in the real property adverse to plaintiffs' title, or any cloud on plaintiffs' title thereto."  
3 Plaintiffs/Petitioners seek to quiet title in the properties which are the subject of this action  
4 against the claim of each such defendant and to obtain a judicial declaration that each such  
5 defendant has no right, title, estate, lien, or interest in the properties which are the subject of this  
6 action or any part of them.

7 17. The names and capacities, whether individual, corporate or otherwise, of  
8 defendants named herein as Does 1 through 100, inclusive, are unknown to Plaintiffs/Petitioners  
9 at this time, who therefore sue said defendants by such fictitious names. Plaintiffs/Petitioners will  
10 amend this complaint and petition to show their true names and capacities if and when they have  
11 been ascertained. Plaintiffs/Petitioners are informed and believe, and on such information and  
12 belief allege, that each of the defendants named as a Doe claims an interest in, or a right to use,  
13 the property which is the subject of this litigation or is responsible in some manner for events and  
14 occurrences about which this complaint and petition are filed and therefore is liable for the relief  
15 sought herein.

#### 16 GENERAL ALLEGATIONS

17 18. Plaintiffs/Petitioners refer to and incorporate Paragraphs 1 through 17, inclusive,  
18 as though fully set forth herein.

19 19. This Court has jurisdiction over this complaint for quiet title and declaratory and  
20 other relief under Code of Civil Procedure, section 760.010 *et seq.* and section 1060 *et seq.*

21 20. Venue is proper in this Court because the real property that is the subject of this  
22 action is located in an unincorporated portion of the County of Santa Barbara, State of California.  
23 (Code Civ. Proc., sec. 392.)

24 21. Hollister Ranch consists of approximately 14,500 acres of land along the Santa  
25 Barbara County coast which has been an operating cattle ranch for over 100 years. In 1970,  
26 Hollister Ranch was subdivided into 135 parcels, each approximately 100 acres. 132 of these 135  
27 parcels are privately owned by the Plaintiff/Petitioner Class.  
28

22. The HROA Beach Parcels comprise 8.5 miles of coastline bounded by the Southern Pacific Railroad Right of Way and the Mean High Tide Line. Under the HROA Covenants, Conditions and Restrictions ("CC&Rs"), the HROA Beach Parcels are Common Area, and each Class Plaintiff/Petitioner has a non-exclusive right to use them for beach recreational use.

23. Hollister Ranch is served by a network of private ranch roads, including the main road (Rancho Real) which commences at the Ranch's eastern boundary and connects to the road that passes through Gaviota State Park to Highway 101. Rancho Real is the main east-west thoroughfare traversing Hollister Ranch. A number of ranch roads branch off of Rancho Real and extend northerly into the foothills, including Cuarta Canyon Road. The owner of each parcel over which the roads pass owns the underlying fee. Each Class Plaintiff/Petitioner owns a non-exclusive easement over all of the Ranch roads and a right to enforce the CC&R restrictions on the use of the Common Areas and the uses on private parcels. The exclusive use of the Common Area is reserved equally to all owners and guests, subject to Hollister Ranch Rules and other limitations and restrictions set forth in the CC&Rs. The Cooperative holds a right to use the roads and the Common Areas under a lease and license agreement with the HROA. Under the CC&Rs, the Ranch roads are also Common Areas and each Class Plaintiff/Petitioner holds a non-exclusive easement to use the ranch roads for ingress and egress.

24. Nine of the Class Plaintiffs/Petitioners, including Plaintiffs/Petitioners Behunin and Connelly, own parcels over which Rancho Real is located at the easterly section of the Hollister Ranch. These parcels are commonly referred to as Hollister Ranch Parcels 103, 105, 106, 107, 119, 120, 121, 122 and 123, and are referenced in this complaint as the "Nine Beachfront Parcels."

25. The interests of Plaintiffs/Petitioners, and each of them, in the properties described in Paragraphs 4 through 7, 9 through 11, and 22 through 24, are referred to hereinafter as "Plaintiffs' properties," "Petitioners' properties," or "Plaintiffs/Petitioners' properties."

26. Plaintiffs/Petitioners are informed and believe, and thereupon allege, that on April 12, 2013 Defendant/Respondent Conservancy authored and sent, by U.S. mail, to an unknown list

1 of recipients, a document entitled "Notice – Public Access Property Acceptance" ("Notice"). The  
2 "Notice" states that it is being provided to "every property owner of record at the Hollister Ranch  
3 subdivision." The "Notice" states the Defendant/Respondent Conservancy's intention to accept  
4 an offer to dedicate lying over various referenced parcels "within Hollister Ranch."

5 27. On April 26, 2013, Defendant/Respondent Commission recorded a "Certificate of  
6 Acceptance" ("Certificate") as Instrument No. 2013-0028299 of the Official Records, County of  
7 Santa Barbara. The Certificate purports to accept an "Irrevocable Offer to Dedicate and Covenant  
8 Running with the Land" for various public access easements ("access easements") in Hollister  
9 Ranch (hereafter "offer"). The offer, which is attached to the Certificate, was executed by a  
10 former owner of Parcel 136.

11 28. The recordation of the Certificate did not create any right by  
12 Defendants/Respondents to use Plaintiffs/Petitioners' properties because, even if  
13 Defendant/Respondent Commission had jurisdiction to request the offer from the permit  
14 applicant, Defendant/Respondent Commission did not have fundamental jurisdiction over  
15 Plaintiffs/Petitioners or over Plaintiffs/Petitioners' properties at any time pertinent hereto.

16 29. Each of the purported access easements described in the Certificate burdens the  
17 property of Plaintiffs/Petitioners as set forth herein. Plaintiffs/Petitioners did not consent to the  
18 recording of the Certificate.

19 30. In the upper left hand corner of the Certificate immediately following the  
20 designation of the recording party, the Certificate includes a reference to "APN 83-680-034" and  
21 "APN 83-067-018." The second APN designation does not exist in Hollister Ranch. APN 83-  
22 680-034 is the parcel number assigned by the Santa Barbara County Assessor's Office  
23 ("Assessor's Office") to the westerly portion of the HROA Beach Parcel commonly known as HR  
24 Parcel 104. APN 83-670-018 is the parcel number assigned by the Assessor's Office to the  
25 HROA Beach Parcel commonly known as HR Parcel 49. Parcel 49 is not mentioned anywhere  
26 in the recorded Certificate except on the face page. Plaintiffs/Petitioners are informed and believe  
27 and thereon allege that no previous or present owner of any Hollister Ranch property ever offered  
28 to dedicate to the public any interest in HR Parcel 49.

31. Code of Civil Procedure section 762.010 *et seq.* requires Plaintiffs seeking quiet title to be comprehensive in their inclusion of defendants in order to obtain a judgment binding as to any and all present or future potential adverse claims. On April 9, 2013, Defendant County of Santa Barbara adopted a resolution by which it declined to accept the access easements and disclaimed any interest in them. Therefore, except to the extent required by law, the use of the term “defendant” in this complaint does not include Defendant County of Santa Barbara.

## CLASS ACTION ALLEGATIONS

32. A class action is proper because there are more than 130 individual parcels of property in Hollister Ranch which are owned by one or more combinations of multiple persons and/or entities, making it impracticable to bring all of the individual owners before the Court. (Code Civ. Proc., sec. 382; Cal. Rules of Court, Rule 3.760.) There are questions of law and fact that are common to all members of the Class and the Subclass that predominate over any questions affecting any individual Class or Subclass member.

33. The proposed Class is defined as every owner of a fee interest in property in Hollister Ranch, with the exception of the Cooperative and HROA, which are individual Plaintiffs/Petitioners, and with the exception of the owner of Parcel 136, which is not a member of the Class and is not a plaintiff or petitioner. Plaintiff/Petitioner Pappas brings this action individually and on behalf of the Class. The claims of Plaintiff/Petitioner Pappas are typical of the claims of the Class.

34. Subclass 1 is defined as every member of the Class who purchased an interest in property in Hollister Ranch, paid valuable consideration for that interest, in good faith, without actual or constructive knowledge of Defendants/Respondents' claims of right, and who duly recorded their interest in their property. Plaintiffs/Petitioners Behunin and Connelly bring suit individually and on behalf of Subclass 1. The claims of Plaintiffs/Petitioners Behunin and Connelly are typical of the claims of Subclass 1.

35. No member of the Class or Subclass is either a predecessor in interest or a successor in interest to the owner of Parcel 136 who purported to offer the public access easements over Plaintiffs/Petitioners' properties.



1 36. Class members exclude the defendants and members of this Court.

2 37. Plaintiffs/Petitioners reserve the right to amend the class definition and to define  
3 further subclasses if needed.

4 38. All Plaintiffs/Petitioners are members of the Class and have suffered harm and are  
5 likely to continue to suffer harm as a result of the conduct of Defendants/Respondents.

6 39. The Class and Subclass Plaintiffs/Petitioners will fully, fairly and adequately  
7 protect the interests of the Class and the Subclass. The interests of the Class and Subclass  
8 Plaintiffs/Petitioners are consistent with and not antagonistic to the interests of the Class and the  
9 Subclass. The Class and Subclass Plaintiffs/Petitioners have agreed to act for the benefit of all of  
10 the Class and Subclass members similarly situated and not to put their individual interests ahead  
11 of any member of the Class or Subclass:

12 40. The prosecution of a multitude of separate actions by individual Class or Subclass  
13 members may establish incompatible standards of conduct for the parties opposing the Class, may  
14 substantially impair or impede the interests of other members of the Class to protect their  
15 interests, and will result in waste.

16 41. This proposed Class Action is manageable because the identity of each of the  
17 owners of property within Hollister Ranch can be ascertained by reference to records maintained  
18 by Defendant County of Santa Barbara.

19 42. The actions of Defendants/Respondents applicable to the Plaintiffs/Petitioners  
20 apply generally to the Class and to the Subclass, thereby making the final relief granted by the  
21 Court to the Plaintiffs/Petitioners applicable to the Class as a whole.

22 43. This Class Action would be superior to other available methods for the fair and  
23 efficient adjudication of the controversy between the parties.

24 **FIRST CAUSE OF ACTION**

25 **(Quiet Title –by All Plaintiffs Against All Defendants)**

26 44. Plaintiffs refer to and incorporate Paragraphs 1 through 43, inclusive, as though  
27 fully set forth herein.

28

45. Plaintiffs cannot ascertain with any degree of certainty which property or properties might be subject to the Certificate for reasons including, but not limited to, the following: The text of the Certificate which describes the various purported "rights of access" by reference to attached exhibits and legal descriptions is deficient and is both internally inconsistent and inconsistent with the attached exhibits and legal descriptions. The purported "rights of access" are not sufficiently described in the text to resolve the confusion and deficiencies. The legal descriptions attached to the offer appear to include parcels which are not referenced in the text. There is no manner by which the properties described in the legal descriptions might be assembled to create contiguous public access to the beach. The face page of the Certificate includes beach property that is not mentioned in the text or in the legal descriptions.

46. Because of the purported claims, deficiencies and confusion alleged in paragraph 45, Plaintiffs must quiet title to each of the subject properties hereinafter described.

47. Plaintiffs Behunin and Connelly are the fee owners in possession of the properties described in Paragraphs 5 and 6. Under the CC&Rs, all of the Class Plaintiffs have the right to restrict the use of the Nine Beachfront Parcels. Plaintiffs seek to quiet title to any claim by Defendants to use the Nine Beachfront Parcels, including but not limited to any use for a bluff top access trail, the legal description of which trail is attached hereto as Exhibit A and incorporated herein by this reference. The recordation of the Certificate could not create any right by Defendants to use the Nine Beachfront Parcels for a bluff top access trail, or for any other use, because neither the offeror nor its successor in interest ever owned fee title to the Nine Beachfront Parcels and, in any event, any such use would violate the CC&Rs.

48. Plaintiffs Behunin and Connelly are the fee owners in possession of the properties described in Paragraphs 5 and 6. Under the CC&Rs, the Class Plaintiffs have the right to restrict the use of these properties. Plaintiffs seek to quiet title to any claim by Defendants to use Parcels 103 and 105, including but not limited to any use for a 10-foot wide footpath over these properties ("a 10-foot wide footpath"), the legal description of which is attached hereto as Exhibit B and incorporated herein by this reference. The recordation of the Certificate could not create any right by Defendants to use these properties for a 10-foot wide footpath, or for any other use,

1 because neither the offeror nor its successor in interest ever owned these properties and, in any  
2 event, any such use would violate the CC&Rs.

3 49. Plaintiffs Behunin and Connelly are the fee owners in possession of the properties  
4 described in Paragraphs 5 and 6. Rancho Real and Cuarta Canyon Road pass over the Nine  
5 Beachfront Parcels, including the parcels owned by Plaintiffs Behunin and Connelly. Each of the  
6 Class Plaintiffs owns a non-exclusive easement in Rancho Real and Cuarta Canyon Road. The  
7 HROA and the Class Plaintiffs have a non-exclusive right, under the CC&Rs, to restrict the use of  
8 Rancho Real and Cuarta Canyon Road. Plaintiffs seek to quiet title to any claim by Defendants to  
9 use Rancho Real and Cuarta Canyon Road, the legal descriptions of which are attached hereto as  
10 Exhibits C and D, respectively, and incorporated herein by this reference. The recordation of the  
11 Certificate could not create any right by Defendants to use these roads because neither the offeror  
12 nor its successor in interest ever owned fee title to the Nine Beachfront Parcels over which these  
13 roads pass and, in any event, any such use would violate the CC&Rs.

14 50. Plaintiff Behunin is the fee owner in possession of the property described in  
15 Paragraph 5 (Parcel 103). Under the CC&Rs, the Class Plaintiffs have the right to restrict the use  
16 of Parcel 103. Plaintiffs seek to quiet title to any claim by Defendants to use this property for a  
17 20-foot wide easement for ingress, egress and utilities ("20-foot wide easement"), or for any other  
18 use. The legal description of the 20-foot wide easement is attached hereto as Exhibit E and  
19 incorporated herein by this reference. The recordation of the Certificate could not create any  
20 right by Defendants to use Parcel 103 for a 20-foot wide easement, or for any other use, because  
21 neither the offeror nor its successor in interest ever owned this property. The recordation of the  
22 Certificate could not create any right by Defendants to use Parcel 103 for a 20-foot wide  
23 easement, or for any other use, because the Certificate makes no mention of Parcel 103 or of the  
24 20-foot wide easement and, in any event, any such use would violate the CC&Rs.

25 51. The Cooperative is in possession of various property rights within the Ranch,  
26 including but not limited to grazing rights on Parcel 70, Parcel 49 and Parcel 104, described  
27 below, and the right to use the beach and road common areas within Hollister Ranch.

52. Plaintiff HROA is the fee owner in possession of the property described in Paragraph 10 as HR Beach Parcel 49. All of the Class Plaintiffs have the non-exclusive right to use this property for beach recreational use and the right to restrict the use of this property, which rights are defined by the CC&Rs as appurtenant to each Plaintiff's individual parcel. Plaintiffs seek to quiet title against any claim by Defendants to any right to use this property because, at all times pertinent hereto, this property was not subject to the Certificate, Defendants have no other claim to any interest in it, and in any event any such use would violate the CC&Rs.

53. Plaintiff HROA is the fee owner in possession of the property described in Paragraph 10 as HR Beach Parcel 104. Each of the Class Plaintiffs has the non-exclusive right to use this property for beach recreational use and to restrict the use of this property, which rights are defined by the CC&Rs as appurtenant to each Plaintiff's individual parcel. Plaintiffs seek to quiet title against any claim by Defendants to use this property, including but not limited to the use of a 3880-foot beach lateral access, the legal description of which is attached hereto as Exhibit F and incorporated herein by this reference. The recordation of the Certificate could not create any right by Defendants to use this property because, at all times pertinent hereto, the offeror held only an easement in the 3880-foot beach easement overlying this property and, in any event, any such use would violate the CC&Rs.

54. Plaintiffs are informed and believe and thereon allege that Defendants claim a right to use Plaintiffs' properties that is adverse to Plaintiffs' respective rights in and titles to each of the properties that is the subject of this action. Defendants' claims are without any right and Defendants have no right to use any of the properties described above, for access easements or for any other use.

55. Plaintiffs seek a determination of their respective interests in the properties described above, as of the date of filing of this complaint.

### SECOND CAUSE OF ACTION

#### **(Declaratory and Injunctive Relief - by All Plaintiffs Against All Defendants)**

56. Plaintiffs refer to and incorporate Paragraphs 1 through 43, and 45 through 54, inclusive, as though fully set forth herein.

1           57. An actual controversy and dispute has arisen between the parties as to the  
2 Plaintiffs' properties and Defendants' rights, if any, to use the Plaintiffs' properties described in  
3 the First Cause of Action. The controversy and dispute involves claims including, but not limited  
4 to, the following:

5           58. Plaintiffs claim that the recordation of the Certificate did not create any right by  
6 Defendants to use Plaintiffs' properties because, even if Defendants had jurisdiction to request the  
7 offer from the permit applicant, Defendants did not have fundamental jurisdiction over Plaintiffs  
8 or over Plaintiffs' properties at any time pertinent hereto. Defendants dispute Plaintiffs' claims.

9           59. Plaintiffs claim that the recordation of the Certificate did not create any right by  
10 Defendants to use Plaintiffs' properties because it is not legally possible to grant an easement  
11 over property which the grantor does not own. Defendants dispute Plaintiffs' claims.

12           60. Plaintiffs claim that the recordation of the Certificate did not create any right by  
13 Defendants to use Plaintiffs' properties because it is not legally possible to create an easement  
14 within an easement. Defendants dispute Plaintiffs' claims.

15           61. Plaintiffs claim that the Legislature's adoption of the "in-lieu" fee program for  
16 Hollister Ranch (Pub. Res. Code, secs. 30610.3 and 30610.8) constitutes an admission by the  
17 State, binding on the people of the State and on all State agencies, that the recordation of the  
18 Certificate could not, as a matter of law, create any right by Defendants to use Plaintiffs'  
19 properties. Defendants dispute Plaintiffs' claims.

20           62. Plaintiffs claim that the Legislature's adoption of the "in-lieu" fee program for  
21 Hollister Ranch (Pub. Res. Code, secs. 30610.3 and 30610.8) constitutes an acknowledgment by  
22 the State, binding on the people of the State and on all State agencies, that if Defendants State,  
23 Commission and Conservancy desire to implement public access to Hollister Ranch, Defendants  
24 must either purchase the access or condemn it. Defendants dispute Plaintiffs' claims.

25           63. Plaintiffs claim that any member of the Class who acquired title to Hollister Ranch  
26 property without actual or constructive notice of any claim by Defendants of a right to use that  
27 member's property, acquired title and holds title free and clear of any such claim by Defendants.  
28 Defendants dispute Plaintiffs' claims.

64. Plaintiffs claim that any contingent right of Defendants State, Commission, Conservancy or County to transfer or accept the purported public access easements is unenforceable. Defendants dispute Plaintiffs' claims.

65. Plaintiffs claim that in no event could the recordation of the Certificate create any right by Defendants to use the beach property described in Paragraph 10 as Parcel 49 or in the 20-foot wide easement described in Exhibit E because those properties are not subject to the Certificate and Defendants have no other claim of right to use them. Defendants dispute Plaintiffs' claims.

66. Plaintiffs claim that the recordation of the Certificate did not create any right by Defendants to use Plaintiffs' properties in violation of the CC&R's. Defendants dispute Plaintiffs' claims.

67. Plaintiffs reserve the right to amend this request for declaratory relief if Defendants assert claims not readily apparent to Plaintiffs at the time this complaint is filed.

68. Plaintiffs desire a judicial determination of their rights, as alleged herein.

69. A judicial declaration is necessary and appropriate at this time because Defendants' actions have caused an unsettled state of affairs that affects the value, marketability, and peaceful enjoyment of Plaintiffs' properties.

70. Plaintiffs are informed and believe that, unless enjoined by this Court, Defendants/Respondents State of California, Commission, Conservancy and Does 1 through 50 intend to and will attempt to enter and occupy Plaintiffs' properties and will allow the public to enter and occupy Plaintiffs' properties, with no right to do so.

71. Plaintiffs have no adequate remedy at law by which to prevent Defendants/Respondents from unlawfully entering and occupying Plaintiffs' properties or by which to prevent Defendants from unlawfully allowing the public to enter and occupy said properties. Monetary damages would not provide a sufficient remedy for the wrongs about which Plaintiffs complain.

72. If Defendants are allowed to enter and occupy Plaintiffs' properties and to allow the public to enter and occupy said properties before this Court has resolved the claims alleged

1 herein, Plaintiffs will suffer irreparable harm to their property interests, to their properties and to  
2 themselves.

3 73. As a consequence of Defendants' unlawful acts, Plaintiffs are entitled to injunctive  
4 relief ordering Defendants to refrain from entering and occupying Plaintiffs' properties, and to  
5 refrain from allowing the public to enter and occupy said properties, until and unless this Court  
6 adjudicates that Defendants have some lawful right to do so.

7 **THIRD CAUSE OF ACTION**

8 **(Petition for Writ of Mandate – By All Petitioners Against Respondents State, Commission,  
9 and Conservancy.)**

10 74. Petitioners refer to and incorporate Paragraphs 1 through 14, 16 through 30, 32  
11 through 43, 45 through 54, 57 through 66, and 70 through 73; inclusive; as though fully set forth  
12 herein.

13 75. On April 3, 2013, Respondent Commission executed an "Acknowledgment,"  
14 certifying that Respondent Conservancy was a public agency acceptable to the Commission to be  
15 a grantee of the purported offer. Respondent Commission did not give notice to Petitioners of  
16 this action, nor did it hold a public hearing thereon.

17 76. On April 18, 2013, Respondent Conservancy executed the Certificate, purporting  
18 to accept the property interests described in the offer. Respondent Conservancy did not give  
19 notice to Petitioners of this action, nor did it hold a public hearing thereon.

20 77. On April 26, 2013, Respondent Commission recorded the Certificate.

21 78. Respondents' conduct as alleged herein was arbitrary and capricious because,  
22 when Respondents took the acts alleged, Respondents knew, or should have known, that their acts  
23 could not create any rights by Respondents to use Petitioners' properties and Respondents knew,  
24 or should have known, that their acts would not give them any right to open public accessways  
25 over Petitioners' properties.

26 79. The acts of Respondents Conservancy and Commission set forth in paragraphs 75,  
27 76 and 77 should be set aside because Respondents did not acquire any right to use Petitioners'  
28 properties by the acts alleged therein.

80. In any event, the acts of Respondents Conservancy and Commission set forth in paragraphs 76 and 77 should be set aside as to the properties described as Parcel 49 in Paragraph 10 and the 20-foot easement described in Exhibit E.

81. Petitioners are beneficially interested in the above-alleged actions of the Respondents for the reasons stated in paragraphs 1 through 11, 21 through 24, 28 through 30, 32 through 43, 45 through 54, and 57 through 73.

82. To the extent that any administrative remedies were available to Petitioners by which to challenge the acts of Respondents, Petitioners have exhausted those remedies and have performed all prerequisites imposed by law before filing this proceeding and action.

83. Respondents have taken final agency action with respect to the Certificate and Petitioners possess no other remedy to challenge Respondents' actions other than by means of this lawsuit.

84. Mandate should issue to order Respondents to set aside and void each of their actions, as alleged herein.

#### **FOURTH CAUSE OF ACTION**

##### **(Temporary Physical Taking of Property Without Compensation –**

##### **By All Plaintiffs Against Defendants State, Commission, and Conservancy.)**

85. Plaintiffs refer to and incorporate Paragraphs 1 through 14, 16 through 30, 32 through 43, 45 through 54, 57 through 66, and 75 through 80, inclusive, as though fully set forth herein.

86. California Constitution, Article I, section 19, and the Fifth Amendment of the United States Constitution, made applicable to the states through the Fourteenth Amendment, prohibit the government from taking private property without just compensation.

87. In the event that Plaintiffs prevail on the First, or the Second, or the Third Causes of Action, and only in that event, Plaintiffs allege this claim for temporary taking. Unless and until all of the contingencies stated in this paragraph occur, Defendants have no right to confess judgment on this claim. The recordation of the Certificate constitutes a temporary physical taking of private property, from the date of recordation of the Certificate to the date upon which the final



1 judgment is entered. Plaintiffs are entitled to damages for that physical taking in an amount to be  
2 determined at trial.

3 88. Plaintiffs are entitled to reasonable costs, disbursements, and expenses, including  
4 reasonable attorney, appraisal, and engineering fees, actually incurred, pursuant to Code of Civil  
5 Procedure section 1036.

6 89. Plaintiffs have performed any and all conditions precedent to the filing of this  
7 Petition and Complaint and have fully exhausted their administrative remedies with respect to the  
8 acts alleged in paragraphs 75, 76 and 77. Defendants have taken final agency action.

9 **FIFTH CAUSE OF ACTION**

10 **(Declaratory Relief - by All Plaintiffs Against All Defendants)**

11 90. If the Court does not quiet title, grant declaratory and/or injunctive relief, and issue  
12 mandate as prayed for in the First, Second, and Third Causes of Action, Plaintiffs seek  
13 declaratory relief in the alternative as stated in the following paragraphs.

14 91. Plaintiffs refer to and incorporate Paragraphs 1 through 43, and 45, inclusive, as  
15 though fully set forth herein.

16 92. An actual controversy and dispute has arisen between the parties as to the  
17 properties and Defendants' rights; if any, to use the properties described in the First Cause of  
18 Action. The controversy and dispute involves claims including, but not limited to, the following:

19 93. Plaintiffs claim that, even if the recordation of the Certificate created some right  
20 by Defendants to use Plaintiffs' properties, in no event would Defendants be entitled to use the  
21 HROA Beach Parcel described in Paragraph 10 as Parcel 49 because that property is not subject  
22 to the Certificate. Defendants dispute Plaintiffs' claims.

23 94. Plaintiffs claim that, even if the recordation of the Certificate created some right  
24 by Defendants to use Plaintiffs' properties, in no event would Defendants be entitled to use the  
25 20-foot wide easement described in Exhibit E, because that easement is not subject to the  
26 Certificate. Defendants dispute Plaintiffs' claims.

27 95. Plaintiffs claim that, even if the recordation of the Certificate created some right  
28 by Defendants to use Plaintiffs' properties, in no event would Defendants be entitled to use any

1 lateral beach public access easement outside the boundaries of the 3880-lateral-foot portion of the  
2 property referred to as Parcel 104 in Paragraph 10. Defendants dispute Plaintiffs' claims.

3 96. Plaintiffs claim that, even if the recordation of the Certificate created some right  
4 by Defendants to use Plaintiffs' properties, in no event would Defendants be entitled to use  
5 Plaintiffs' properties for a "blufftop access trail" because the offer for such a trail stated that it  
6 was made only "to the extent of owner's legal and equitable interests" in the "affected  
7 properties," and neither the offeror nor its successor in interest ever owned any legal or equitable  
8 interest in the affected properties. Defendants dispute Plaintiffs' claims.

9 97. Plaintiffs claim that, even if the recordation of the Certificate created some right  
10 by Defendants to use Plaintiffs' properties, in no event would Defendants be entitled to use  
11 Plaintiffs' properties for a bluff top access trail because there is not a sufficiently wide contiguous  
12 strip of land along the top of the bluff within the legal description set forth in Exhibit A to  
13 accommodate such a trail. Defendants dispute Plaintiffs' claims.

14 98. Plaintiffs claim that, even if the recordation of the Certificate created some right  
15 by Defendants to use Plaintiffs' properties, in no event would Defendants be entitled to use  
16 Plaintiffs' properties for a bluff top access trail because most, if not all, of the bluff top access  
17 trail described in Exhibit A lies outside the property that is defined as the subject of the  
18 Certificate. Defendants dispute Plaintiffs' claims.

19 99. Plaintiffs claim that, even if the recordation of the Certificate created some right  
20 by Defendants to use Plaintiffs' properties, the Certificate is unenforceable because its objective  
21 is impossible to achieve. The objective of the Certificate is impossible because there is no  
22 manner by which the various property interests described therein could be combined to provide  
23 access to the beach. The reasons for the lack of contiguity include, but are not limited to, the fact  
24 that the legal description of the 10-foot footpath terminates on the landward side of the tunnel and  
25 does not continue through the tunnel to the beach. Defendants dispute Plaintiffs' claims.

26 100. Plaintiffs claim that, even if the recordation of the Certificate created some right  
27 by Defendants to use Plaintiffs' properties, the terms for implementation of the access program  
28

1 set forth in the Certificate are ambiguous and require interpretation by the court. Defendants  
2 dispute Plaintiffs' claims.

3 101. Plaintiffs claim that, even if the recordation of the Certificate created some right  
4 by Defendants to use Plaintiffs' properties, in no event would Defendants be entitled to use  
5 Plaintiffs' properties in violation of the CC&R's. Defendants dispute Plaintiffs' claims.

6 102. Plaintiffs reserve the right to amend this request for declaratory relief if  
7 Defendants assert claims not readily apparent to Plaintiffs at the time this complaint is filed.

8 103. Plaintiffs desire a judicial determination of their rights in favor of their claims, as  
9 alleged herein.

10 104. A judicial declaration is necessary and appropriate at this time because  
11 Defendants' actions have caused an unsettled state of affairs that affects the value, marketability,  
12 and peaceful enjoyment of Plaintiffs' properties.

13 **SIXTH CAUSE OF ACTION**

14 **(Declaratory Relief – By All Plaintiffs Against Defendants State,**  
15 **Commission, and Conservancy.)**

16 105. In the event that the State, the Commission and the Conservancy do not set aside  
17 their actions as prayed in the Third Cause of Action, and in the event that the Court, for any  
18 reason, finds in favor of the State, the Commission and the Conservancy on the First, Second,  
19 Fourth and Fifth Causes of Action, and only in those events, as a matter of last resort, Plaintiffs  
20 allege this claim for declaratory relief. Unless and until all of the contingencies stated in this  
21 paragraph occur, Defendants have no right to confess judgment on this claim.

22 106. Plaintiffs refer to and incorporate Paragraphs 1 through 14, 16 through 30, 32  
23 through 43, 45, 63, and 75 through 77, inclusive, as though fully set forth herein.

24 107. California Constitution, Article I, section 19, and the Fifth Amendment of the  
25 United States Constitution, made applicable to the states through the Fourteenth Amendment,  
26 prohibit the government from taking private property without just compensation.

27 108. An actual and present controversy has arisen and now exists between Plaintiffs and  
28 Defendants. Plaintiffs claim that, even if the Court finds that the recordation of the Certificate

created some right by Defendants State, Commission and Conservancy to use Plaintiffs' properties, any continued claim by Defendants of a right to use Plaintiffs' properties will result in an unconstitutional physical taking of Plaintiffs' properties. Defendants dispute that claim.

109. Plaintiffs desire a judicial declaration that any continued claim by Defendants of a right to use Plaintiffs' properties will result in a physical taking of Plaintiffs' properties.

110. A judicial declaration is necessary and appropriate at this time because Defendants' actions have caused an unsettled state of affairs that affects the value, marketability, and peaceful enjoyment of Plaintiffs' properties.

### **SEVENTH CAUSE OF ACTION**

**(Petition for Writ of Mandate -**

**By All Petitioners Against Respondents State,  
Commission, and Conservancy.)**

111. In the event that the State, the Commission and the Conservancy do not set aside their actions as prayed in the Third Cause of Action, and in the event that the Court, for any reason, finds in favor of the State, the Commission and the Conservancy on the First, Second, Fourth and Fifth Causes of Action, and in the event the Court finds for Plaintiffs on the Sixth Cause of Action, and only in those events, as a matter of last resort, Petitioners allege this claim for mandate. Unless and until all of the contingencies stated in this paragraph occur, Respondents have no right to confess judgment on this claim.

112. Petitioners refer to and incorporate Paragraphs 1 through 14, 16 through 30, 32 through 43, 45, 63, 75 through 77, inclusive, as though fully set forth herein.

113. California Constitution, Article I, section 19, and the Fifth Amendment of the United States Constitution, made applicable to the states through the Fourteenth Amendment, prohibit the government from taking private property without just compensation.

114. Even if the Court finds that the recordation of the Certificate created some right by Respondents to use Petitioners' properties, any continued claim by Respondents to any right to use Petitioners' properties will result in an unconstitutional physical taking of Petitioners' properties.

1 115. Respondents have not paid just compensation to Petitioners for the taking of  
2 Petitioners' properties.

3 116. Petitioners are beneficially interested in the above-alleged actions of the  
4 Respondents for the reasons stated in paragraphs 1 through 11, 21 through 24, 29 and 30, 32  
5 through 43, 45, 107 and 108.

6 117. To the extent that any administrative remedies were available to Petitioners by  
7 which to challenge the acts of Respondents, Petitioners have exhausted those remedies and have  
8 performed all prerequisites imposed by law before filing this proceeding and action.

9 118. Respondents have taken final agency action with respect to the Certificate and  
10 Petitioners possess no other remedy to challenge Respondents' actions other than by means of  
11 this lawsuit.

12 119. Mandate should issue to order Respondents to elect to (a) leave the Certificate in  
13 place or (b) set aside the actions set forth in Paragraphs 75, 76, and 77.

#### 14 EIGHTH CAUSE OF ACTION

#### 15 (Physical Taking of Property Without Compensation -

#### 16 By All Plaintiffs Against Defendants State, Commission, and Conservancy.)

17 120. In the event that the State, the Commission and the Conservancy do not set aside  
18 their actions as prayed in the Third Cause of Action, and in the event that the Court, for any  
19 reason, finds in favor of the State, the Commission and the Conservancy on the First, Second,  
20 Fourth or Fifth Causes of Action, and in the event the Court finds for Plaintiffs on the Sixth and  
21 Petitioners on the Seventh Causes of Action, and in the event Defendants/Respondents elect to  
22 not set aside their actions as prayed in the Seventh Cause of Action, and only in those events, as a  
23 matter of last resort, Plaintiffs allege this claim for inverse condemnation. Unless and until all of  
24 the contingencies stated in this paragraph occur, Defendants have no right to confess judgment on  
25 this claim.

26 121. Plaintiffs refer to and incorporate Paragraphs 1 through 14, 16 through 30, 32  
27 through 43, 45, 63, 75 through 77, 115, 117 and 118, inclusive, as though fully set forth herein.

122. California Constitution, Article I, section 19, and the Fifth Amendment of the United States Constitution, made applicable to the states through the Fourteenth Amendment, prohibits the government from taking private property without just compensation.

123. Even if the Court finds that the recordation of the Certificate created some right by Defendants to use Plaintiffs' properties, any continued claim by Defendants to use Plaintiffs' properties will result in an unconstitutional physical taking of Plaintiffs' properties.

124. Plaintiffs have performed any and all conditions precedent to the filing of this Petition and Complaint and have fully exhausted their administrative remedies with respect to the acts alleged in paragraphs 75, 76 and 77.

125. If Defendants elect to set aside the acts alleged in paragraphs 75, 76 and 77, Plaintiffs are entitled to damages for a temporary physical taking. If Defendants do not elect to set aside the acts alleged in paragraphs 75, 76 and 77, Plaintiffs are entitled to payment of the difference between (a) the fair market value of Plaintiffs' properties without public access rights, and (b) the fair market value of Plaintiffs' properties with public access rights.

126. Plaintiffs are entitled to reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred, pursuant to Code of Civil Procedure section 1036.

#### PRAAYER FOR RELIEF

WHEREFORE, Plaintiffs/Petitioners pray for Judgment against Defendants/Respondents as follows:

#### CLASS ALLEGATIONS:

1. For certification of the Class and the Subclass as defined;
2. For the appointment of the appropriate Plaintiffs/Petitioners as Class Representatives of the Class and Subclass and the designation of Class Counsel; and
3. For judgment in favor of the Class and the Subclass on each of the causes of action as set forth below.

1 AS TO THE FIRST CAUSE OF ACTION:

2 For judgment that Defendants have no right to use Plaintiffs' Properties, and no right, title  
3 or interest whatsoever in or to Plaintiffs' properties.

4 AS TO THE SECOND CAUSE OF ACTION:

5 1. For a judicial declaration that Defendants had no fundamental jurisdiction over  
6 Plaintiffs or over any of Plaintiffs' properties at any time pertinent hereto;

7 2. For a judicial declaration that the recordation of the Certificate did not give  
8 Defendants any right to use Plaintiffs' properties;

9 3. For a judicial declaration that the recordation of the Certificate did not give  
10 Defendants any right, title or interest in Plaintiffs' Properties whatsoever;

11 4. For a judicial declaration of the parties' rights and responsibilities under Public  
12 Resources Code section 30610.8;

13 5. For a judicial declaration that any member of the Class who acquired title to his or  
14 her Hollister Ranch property without actual or constructive notice of any interest claimed by the  
15 Defendants acquired title and holds title free and clear of any interest claimed by Defendants;

16 6. For a judicial declaration that the recordation of the Certificate did not give  
17 Defendants any right to use Plaintiffs' properties in violation of the CC&Rs;

18 7. For a judicial declaration that Defendants have no contingent rights under the  
19 Certificate;

20 8. For such other judicial declarations and determinations as are warranted;

21 9. For a temporary restraining order, a preliminary injunction, and a permanent  
22 injunction prohibiting Defendants/Respondents from unlawfully entering and occupying  
23 Plaintiffs/Petitioners' properties and from unlawfully allowing the public to enter and occupy said  
24 properties; and

25 10. For such other and further injunctive orders as are warranted.

26 AS TO THE THIRD CAUSE OF ACTION:

27 1. For a peremptory writ of mandate, commanding Respondents Commission and  
28 Conservancy to set aside the acts alleged in Paragraphs 75, 76 and 77;

2. In any event, for a peremptory writ of mandate, commanding Respondents Conservancy and Commission to set aside the acts alleged in Paragraphs 76 and 77 as to the properties described as Parcel 49 in Paragraph 10 and the 20-foot easement described in Exhibit E; and

3. For other such extraordinary relief as is warranted.

AS TO THE FOURTH CAUSE OF ACTION:

In the event that Plaintiffs prevail on the First, or the Second, or the Third Causes of Action, and only in that event:

1. For damages for a temporary physical taking of Plaintiffs' properties, from the date of recordation of the Certificate to the date of final judgment, according to proof; and

2. For Plaintiffs' reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred, pursuant to Code of Civil Procedure section 1036.

AS TO THE FIFTH CAUSE OF ACTION:

1. Even if the Court finds that the recordation of the Certificate gives Defendants some right to use Plaintiffs' properties, for a declaration regarding the scope of that use, and adjudicating the rights and responsibilities of the parties, and each of them, as prayed; and

2. For such other judicial declarations and determinations as are warranted.

AS TO THE SIXTH CAUSE OF ACTION:

In the event that the State, the Commission and the Conservancy do not set aside their actions as prayed in the Third Cause of Action, and in the event that the Court, for any reason, finds in favor of the State, the Commission and the Conservancy on the First, Second, Fourth and Fifth Causes of Action, and only in those events, as a matter of last resort, for a judicial declaration that any continued claim by Defendants of a right to use Plaintiffs' properties constituted a physical taking.

AS TO THE SEVENTH CAUSE OF ACTION:

In the event that the State, the Commission and the Conservancy do not set aside their actions as prayed in the Third Cause of Action, and in the event that the Court, for any reason,



finds in favor of the State, the Commission and the Conservancy on the First, Second, Fourth and Fifth Causes of Action, and in the event the Court finds for Plaintiffs on the Sixth Cause of Action, and only in those events, as a matter of last resort:

1. For a peremptory writ of mandate, commanding Respondents State, Commission and Conservancy to elect (a) to leave the Certificate in place or (b) to set aside their actions as prayed;

2. For other such extraordinary relief as is warranted.

AS TO THE EIGHTH CAUSE OF ACTION:

In the event that the State, the Commission and the Conservancy do not set aside their actions as prayed in the Third Cause of Action, and in the event that the Court, for any reason, finds in favor of the State, the Commission and the Conservancy on the First, Second, Fourth or Fifth Causes of Action, and in the event the Court finds for Plaintiffs on the Sixth and Seventh Causes of Action, and in the event Defendants elect to not set aside their actions as prayed in the Seventh Cause of Action, and only in those events, as a matter of last resort:

1. For damages for a physical taking of Plaintiffs' property, according to proof;

2. For Plaintiffs' reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred, pursuant to Code of Civil Procedure section 1036.

AS TO ALL CAUSES OF ACTION:

1. For costs of suit herein incurred; and

2. For such other and further relief as the court may deem proper.

Dated: May 31, 2013

BROWNSTEIN HYATT FARBER SCHRECK, LLP

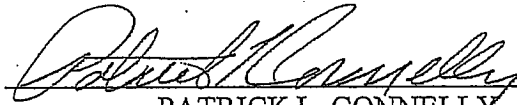
By: 

STEVEN A. AMERIKANER  
BARRY B. LANGBERG  
BETH COLLINS-BURGARD  
Attorneys for Plaintiffs and Petitioners

VERIFICATION

I declare under penalty of perjury under the laws of the State of California that I am a party to the above-entitled matter, that I have read the foregoing CLASS ACTION COMPLAINT FOR QUIET TITLE, DECLARATORY AND INJUNCTIVE RELIEF, PETITION FOR WRIT OF MANDATE, AND OTHER RELIEF and know the contents thereof, and that it is true and correct of my own knowledge, except as to those matters stated upon information and belief, and as to those matters I believe them to be true.

Executed at Santa Barbara, California on May 30, 2013.

  
PATRICK L. CONNELLY

Blufftop Access Trail. To the extent of owner's legal and equitable interests in lands southerly of Rancho Real Road, defined as Parcel Three in Exhibit A, and northerly of the railroad right of way bordering Parcel Five described in Exhibit B, including but not limited to those lands described as Parcel Six in Exhibit A and a non-exclusive trail easement described in Exhibit B, owners hereby grant a right of public access to pass and repass along a blufftop lateral access trail. The public right to use this lateral access trail shall be limited to those times when use of the beach lateral access area is restricted due to high tide or storm conditions. In no case shall the lateral access trail be wider than 10 feet nor be sited further landward than Rancho Real Road, nor further seaward than the Southern Pacific railroad right-of-way. The exact location of the lateral access trail shall be designated in a coastal trail plan for Hollister Ranch.

EXHIBIT A

A NON-EXCLUSIVE EASEMENT FOR A FOOT PATH 10 FEET IN WIDTH FROM THE STONE ARCH, LOCATED AT THE INTERSECTION OF THE NORTHERLY LINE OF THE RAILROAD RIGHT OF WAY, WITH CUARTE CREEK; THENCE FOLLOWING THE MEANDER LINE OF SAID CREEK TO AN EXISTING ROAD RIGHT OF WAY.

EXHIBIT B.

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS OVER THAT PORTION OF THE RANCHO NUESTRA SEÑORA DEL REFUGIO, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES PATENT, RECORDED JULY 28, 1866 IN BOOK A, PAGE 17, ET SEQ., OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, WHICH LIES WITHIN A STRIP OF LAND 24 FEET IN WIDTH THE CENTER LINE OF SAID STRIP OF LAND BEING THE CENTER LINE OF THAT CERTAIN "EXISTING ROAD" SHOWN ON EXHIBITS "A", "B" AND "C" ATTACHED TO EASEMENT DEED, IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY, RECORDED APRIL 19, 1967 AS INSTRUMENT NO. 10684 IN BOOK 2187, PAGE 1354 OF OFFICIAL RECORDS, RECORDS OF SAID COUNTY.

EXCEPTING THEREFROM THAT PORTION LYING EASTERLY OF THE WESTERLY LINE OF THE TRACT OF LAND DESCRIBED AS PARCEL ONE, IN THE DEED TO STATE OF CALIFORNIA, RECORDED OCTOBER 10, 1957 AS INSTRUMENT NO. 29404 IN BOOK 2207, PAGE 1050 OF OFFICIAL RECORDS OF SAID COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION LYING WESTERLY OF THE EASTERLY LINE OF PARCEL TWO OF EXHIBIT "A" IN THE DEED TO YOUNG MEN'S CHRISTIAN ASSOCIATION OF METROPOLITAN LOS ANGELES RECORDED ON JUNE 29, 1970, AS INSTRUMENT NUMBER 16794, BOOK 2312, PAGE 1378 OF OFFICIAL RECORDS, RECORDS OF SAID COUNTY.

EXHIBIT C

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS AND UTILITIES OVER THAT PORTION OF THE RANCHO NUESTRA SENORA DEL REFUGIO, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES PATENT RECORDED JULY 28, 1866 IN BOOK A, PAGE 17, ET SEQ. OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, WHICH LIES WITHIN A STRIP OF LAND 24 FEET WIDE THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE UNITED STATES COAST AND GEODETIC TRIANGULATION STATION "ANITA 2"; THENCE SOUTH 89°27'27" EAST 7573.01 FEET TO THE UNITED STATES COAST AND GEODETIC TRIANGULATION STATION "HORSE SHOE" SAID UNITED STATES COAST AND GEODETIC TRIANGULATION STATION BEING SHOWN ON MAP FILED IN BOOK 41, PAGES 32 TO 44, INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID UNITED STATES COAST AND GEODETIC TRIANGULATION STATION "HORSE SHOE", BEING APPROXIMATELY SOUTH 46°38'50" WEST 14,615.75 FEET FROM A 3/4 INCH IRON PIPE AT THE EASTERLY TERMINUS OF THAT CERTAIN COURSE SHOWN AS HAVING A BEARING AND LENGTH OF "N. 87°22' W. 19,196.50" IN THE NORTHERLY BOUNDARY OF THE RANCHO NUESTRA SENORA DEL REFUGIO, AS SHOWN ON MAP OF THE DIVISIONS OF RANCHO SAN JULIAN, RECORDED IN BOOK 14, PAGES 1 TO 14, INCLUSIVE OF MAPS AND SURVEYS, IN THE OFFICE OF SAID RECORDER; THENCE NORTH 63°43'50" WEST 4042.80 FEET TO THE TRUE POINT OF BEGINNING OF SAID EASEMENT; THENCE NORTH 27°15'53" EAST 117.69 FEET; THENCE NORTH 7°07'30" WEST 161.24 FEET; THENCE NORTH 30°41'59" EAST 186.08 FEET; THENCE NORTH 48°21'59" EAST 120.42 FEET; THENCE NORTH 23°11'55" EAST 152.32 FEET; THENCE NORTH 16°11'21" EAST 161.40 FEET; THENCE NORTH 8°44'45" WEST 131.53 FEET; THENCE NORTH 10°53'08" WEST 132.38 FEET; THENCE NORTH 5°11'40" EAST 110.45 FEET; THENCE NORTH 25°20'46" EAST 210.24 FEET; THENCE NORTH 48°48'51" EAST 106.30 FEET; THENCE NORTH 47°43'35" EAST 148.66 FEET; THENCE NORTH 4°23'53" EAST 130.38 FEET; THENCE NORTH 130.00 FEET; THENCE NORTH 14°44'37" EAST 156.47 FEET; THENCE NORTH 170.00 FEET; THENCE NORTH 33°41'24" EAST 184.28 FEET; THENCE NORTH 7°54'26" EAST 363.46 FEET; THENCE NORTH 5°51'59" EAST 311.45 FEET; THENCE NORTH 11°18'36" WEST 101.98 FEET; THENCE NORTH 4°45'49" EAST 60.21 FEET; THENCE NORTH 36°52'12" EAST 75.00 FEET; THENCE NORTH 55°29'29" EAST 97.08 FEET; THENCE NORTH 62°01'14" EAST 181.18 FEET; THENCE NORTH 3°34'35" EAST 180.31 FEET; THENCE NORTH 58°23'33" EAST 152.64 FEET; THENCE NORTH 40.00 FEET; THENCE NORTH 59°32'16" WEST 86.02 FEET; THENCE NORTH 23°01'32" EAST 217.31 FEET; THENCE NORTH 14°02'10" EAST 105.08 FEET; THENCE NORTH 14°55'33" WEST 310.48 FEET; THENCE NORTH 20°33'22" EAST 85.44 FEET; THENCE NORTH 78°41'24" EAST 101.98 FEET; THENCE NORTH 63°26'06" EAST 55.96 FEET; THENCE NORTH 9°05'25" EAST 125.59 FEET; THENCE NORTH 2°51'45" EAST 400.50 FEET.

EXCEPTING THEREFROM ANY PORTION THEREOF WHICH LIES SOUTHERLY OF THE SOUTHERLY BOUNDARY OF THAT CERTAIN STRIP OF LAND AS SHOWN ON MAP RECORDED IN BOOK 2187, PAGES 1375 TO 1381, INCLUSIVE OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT D

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES OVER THAT PORTION OF THE RANCHO NUESTRA SENORA DEL REFUGIO, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES PATENT RECORDED ON JULY 28, 1866, IN BOOK A, PAGE 17 ET SEQ., OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY WHICH LIES WITHIN A STRIP OF LAND 20 FEET WIDE, THE CENTER LINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE UNITED STATES COAST AND GEODETIC TRIANGULATION STATION "ANITA 2"; THENCE SOUTH 89°27'27" EAST 7573.01 FEET TO THE UNITED STATES COAST AND GEODETIC TRIANGULATION STATION "HORSE SHOE", SAID UNITED STATES COAST AND GEODETIC TRIANGULATION STATION BEING SHOWN ON MAP FILED IN BOOK 41, PAGES 12 TO 50, INCLUSIVE, OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID UNITED STATES COAST AND GEODETIC TRIANGULATION STATION "HORSE SHOE" BEING APPROXIMATELY SOUTH 48°38' 50" WEST 14,615.75 FEET FROM A 3/4 INCH IRON PIPE AT THE EASTERLY TERMINUS OF THAT CERTAIN COURSE SHOWN AS HAVING A BEARING AND LENGTH OF "N. 87°22' W. 19,196.30'" IN THE NORTHERLY BOUNDARY OF THE RANCHO NUESTRA SENORA DEL REFUGIO AS SHOWN ON MAP OF THE DIVISIONS OF RANCHO SAN JULIAN, RECORDED IN BOOK 14, PAGES 1 TO 14, INCLUSIVE, OF MAPS AND SURVEYS IN THE OFFICE OF SAID RECORDER; THENCE NORTH 70°57'45" WEST 4104.39 FEET; THENCE SOUTH 24°07'15" WEST TO A POINT IN THE MEAN HIGH TIDE LINE OF THE PACIFIC OCEAN; THENCE NORTH 65°52'45" WEST 10.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 24°07'15" EAST TO THE POINT OF INTERSECTION WITH THE CENTER LINE OF THAT STRIP OF LAND DESIGNATED AS "EXISTING ROAD" SHOWN ON EXHIBITS "A", "B" AND "C" ATTACHED TO EASEMENT DEED IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY RECORDED APRIL 15, 1967 AS INSTRUMENT NO. 10684 IN BOOK 2387 PAGE 1364 OF OFFICIAL RECORDS, RECORDS OF SAID COUNTY; THENCE ALONG THE CENTER LINE OF SAID "EXISTING ROAD" TO THE WESTERLY LINE OF PARCEL TWO OF EXHIBIT "A" IN THE DEED TO YOUNG MEN'S CHRISTIAN ASSOCIATION OF METROPOLITAN LOS ANGELES RECORDED ON JUNE 29, 1970, AS INSTRUMENT NUMBER 16794, BOOK 2312, PAGE 1378 OF OFFICIAL RECORDS, RECORDS OF SAID COUNTY.

EXCEPTING THAT PORTION LYING WITHIN THE LINES OF THE SOUTHERN PACIFIC COMPANY RAILROAD RIGHT OF WAY.

EXHIBIT E

A NON-EXCLUSIVE EASEMENT FOR BEACH USE OVER THAT PORTION OF THE RANCHO NUESTRA SEÑORA DEL REFUGIO, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES PATENT, RECORDED JULY 28, 1866 IN BOOK A, PAGE 17, ET SEQ. OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, WHICH LIES SOUTHERLY OF THE TOP OF THE BLUFF ALONG THE PACIFIC OCEAN AND BETWEEN A LINE WHICH PASSES NORTH AND SOUTH THROUGH UNITED STATES COAST AND GEODETIC TRIANGULATION STATION "HORSE SHOE", AS SHOWN ON THE MAP OF SURVEY FILED IN BOOK 41, PAGES 12 TO 50 OF MISCELLANEOUS MAPS AND A LINE THAT PASSES NORTH AND SOUTH THROUGH A POINT THAT BEARS NORTH 70°57'45" WEST FROM SAID "HORSE SHOE" TRIANGULATION STATION A DISTANCE OF 3,880 FEET.

EXCEPTING ANY PORTION LYING BELOW THE MEAN HIGH TIDE LINE OF THE PACIFIC OCEAN.