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6 PARCHESTER VILLAGE NEIGHBORHOOD
COUNCIL, CITIZENS FOR EAST SHORE
7 PARKS, SUSTAINABILITY, PARKS, RECYCLING
AND WILDLIFE DEFENSE FUND, and WHITNEY DOTSON
8

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 IN AND FOR THE COUNTY OF CONTRA COSTA

12 PARCHESTER VILLAGE NEIGHBORHOOD)
13 COUNCIL, CITIZENS FOR EAST SHORE)
14 PARKS, SUSTAINABILITY, PARKS,)
RECYCLING AND WILDLIFE DEFENSE)
15 FUND, and WHITNEY DOTSON,)

16 Petitioners/Plaintiffs,)

17 v.)

18 CITY OF RICHMOND, a California)
Municipality, CITY COUNCIL OF THE CITY)
19 OF RICHMOND, and DOES I-XX,)

20 Respondents,)

21 SCOTTS VALLEY BAND OF POMO)
22 INDIANS, AND DOES XXI-L, inclusive,)

23 Real Parties in Interest.)
24 _____)

Civ. No.

**VERIFIED PETITION FOR WRIT
OF MANDATE AND COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF AND
ATTORNEYS' FEES**

(Code Civ. Pro. §§ 1085, 1088, 1094.5;
Pub. Res. Code §§ 21168, 21168.5)

25 Petitioners PARCHESTER VILLAGE NEIGHBORHOOD COUNCIL, CITIZENS FOR
26 EAST SHORE PARKS, SUSTAINABILITY, PARKS, RECYCLING AND WILDLIFE
27 DEFENSE FUND, and WHITNEY DOTSON hereby petition the Court for a writ of mandate
28

1 against respondents the City of Richmond (“the City”) and the City Council of the City of
2 Richmond (“City Council”), and by this Verified Petition allege as follows:

3 **INTRODUCTION**

4 1. Petitioners bring this action to challenge the legality of the City of Richmond’s
5 (“City’s”) actions in entering into a Municipal Services Agreement (“MSA”) with real party in
6 interest Scotts Valley Band of Pomo Indians (“Band”), contracting to provide services including
7 law enforcement, fire protection, emergency response, transportation system management,
8 public works and other City services for the benefit of the Band’s construction and operation of
9 a gaming facility (“Casino” or “Project”) on property adjacent to, but not within the borders of,
10 the City of Richmond. The City signed the MSA without conducting any of the environmental
11 review required by the California Environmental Quality Act (“CEQA”), Public Resources Code
12 sections 21000 *et seq.*, sidestepping its responsibility to protect the public’s interest in
13 enforcement of environmental laws and protection of the region’s environmental resources and
14 amenities. Prior to signing the MSA, the City should have prepared an environmental impact
15 report (“EIR”) to examine and address the potentially significant environmental impacts of its
16 agreement to provide City services to the Casino property. Petitioners respectfully request that
17 the Court right this wrong and find that the City’s action in signing the MSA was unlawful.

18 2. Although the Band, as a signatory to the MSA, has an interest in this litigation, the
19 Band is not an indispensable party and need not be joined if the Band fails to waive sovereign
20 immunity. The City’s interest in defending the legality of its action duplicates that of the Band,
21 and the Band’s interest will thus be adequately defended by the City. If the Band refuses to
22 waive sovereign immunity and thus cannot be joined, were this Court to determine, erroneously,
23 that the Band is an indispensable party, petitioners would have no available recourse against the
24 City to pursue the just enforcement of the environmental laws of this State.

25 3. The City’s approval of the MSA authorized a process which will lead to a
26 development “that may cause either a direct physical change in the environment or a reasonably
27 foreseeable indirect physical change in the environment,” and thus that approval is subject to
28 CEQA. Pub. Res. Code § 21065. Respondents violated CEQA by improperly determining that

1 their approval of the MSA did not constitute the approval of a project subject to CEQA and that
2 their actions were exempt from CEQA. Among other things, the MSA commits the City to
3 extend essential urban services to the Casino property and to bind itself to support and advocate
4 for the Casino before all relevant state and federal review bodies, including supporting the
5 Band's efforts to have the property taken into trust. Far from a mere funding mechanism
6 divorced from any change in the environment, the City's approval of the MSA is an essential
7 step in the development of the project and commits the City to supporting a definite course of
8 action, taken without analysis of the potential environmental impacts of, or any more appropriate
9 alternatives to, the Casino project in violation of CEQA. Petitioners therefore seek a peremptory
10 writ of mandate and declaratory and injunctive relief invalidating the MSA in its entirety and
11 requiring respondents to comply with the requirements of CEQA before considering, executing
12 or implementing any part of the MSA.

13 VENUE AND JURISDICTION

14 4. This Verified Petition for Writ of Mandate is authorized by Code of Civil
15 Procedure section 1085 *et seq.* and Public Resources Code sections 21168 and 21168.5.

16 5. Pursuant to Code of Civil Procedure section 388, petitioners are serving the
17 California Attorney General with a copy of this Verified Petition and Complaint, and consistent
18 with Public Resources Code section 21167.5, petitioners have served respondents with notice of
19 this suit.

20 PARTIES

21 6. Petitioner Parchester Village Neighborhood Council is an unincorporated
22 association whose approximately 75 active members reside or work in the Parchester Village
23 area of the City of Richmond located to the north and west of the proposed site of the Casino.
24 Parchester Village comprises approximately 400 residential, and 5 light industrial, parcels.
25 Petitioner and its members would be injured by increased traffic, noise, air pollution, litter,
26 congestion, crime and fire danger if the Project facilitated by the MSA is allowed to proceed as
27 planned. Petitioner and its members are within the class of persons beneficially interested in,
28

1 and aggrieved by, respondents' actions in approving the MSA while failing to conduct
2 environmental review under CEQA.

3 7. Petitioner Citizens for East Shore Parks (also known as CESP) is a non-profit
4 public benefit California corporation, whose headquarters are located at 520 El Cerrito Plaza in
5 El Cerrito, California, with hundreds of individual and organizational supporters. Its mission
6 includes the enjoyment, enhancement, protection, and preservation as a state or regional park of
7 the eastern shoreline of San Francisco Bay. Petitioner's members use and enjoy the eastern
8 shoreline of San Francisco Bay, including lands and waters in the vicinity of the proposed
9 Casino site. Petitioner's public education and advocacy campaign resulted in the establishment
10 in 2002 of the East Shore State Park, a 2,200-acre shoreline park extending from the foot of the
11 Bay Bridge in Oakland through Emeryville, Berkeley and Albany into Richmond, past Point
12 Isabel. Petitioner is vitally engaged in a continuing campaign to extend this park north or to
13 create complementary shoreline parks, to include the shoreline of San Francisco Bay west of the
14 proposed Casino site. Petitioner and its members would be injured by increased traffic, noise,
15 air pollution, litter, congestion, crime, fire danger and park land acquisition costs and
16 incompatible land uses, if the Project facilitated by the MSA is allowed to proceed as planned.
17 Petitioner and its members are within the class of persons beneficially interested in, and
18 aggrieved by, respondents' actions in approving the MSA while failing to conduct
19 environmental review under CEQA.

20 8. Petitioner Sustainability, Parks, Recycling and Wildlife Defense Fund (also known
21 as SPRAWLDEF) is a non-profit public benefit California corporation with its headquarters at
22 802 Balra Drive in El Cerrito, California whose purpose is to promote the establishment and
23 proper management of public parks, sustainable, well-planned human development, recycling
24 and protection of wildlife and its habitat. Petitioner and its members would be injured by
25 increased traffic, noise, air pollution, litter, congestion, crime, fire danger and park land
26 acquisition costs, and incompatible land uses, if the Project facilitated by the MSA is allowed to
27 proceed as planned. Petitioner and its members are within the class of persons beneficially
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1 interested in, and aggrieved by, respondents' actions in approving the MSA while failing to
2 conduct environmental review under CEQA.

3 9. Petitioner Whitney Dotson is a resident of Parchester Village and President of the
4 Parchester Village Neighborhood Council. Petitioner resides at 4109 Jenkins Way in the City of
5 Richmond, in the vicinity of the proposed Casino site, and uses and enjoys the eastern shoreline
6 of San Francisco Bay, including lands and water in the vicinity of the proposed Casino site.
7 Petitioner would be injured if the Project facilitated by the MSA is allowed to proceed as
8 planned. Petitioner is within the class of persons beneficially interested in, and aggrieved by,
9 respondents' actions in approving the MSA while failing to conduct environmental review under
10 CEQA.

11 10. Petitioners have authorized their attorneys to file this lawsuit on their behalf to
12 vindicate their substantial beneficial interest in securing respondents' compliance with the laws
13 whose violation is alleged herein.

14 11. Petitioners have performed any and all conditions precedent to the filing of this
15 Verified Petition and have exhausted any and all available administrative remedies.

16 12. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of
17 law in that, unless this Court issues its writ of mandate requiring respondents to set aside their
18 approvals of the MSA and requiring respondents to comply with the laws whose violation is
19 alleged herein, the environmental interests of petitioners and the public that are protected by
20 those laws will be substantially and irreparably harmed. No monetary damages or other legal
21 remedy could adequately compensate petitioners for the harm to their beneficial interests, and
22 ultimately to the environment, occasioned by respondents' unlawful conduct.

23 13. Respondent City of Richmond is a charter city duly organized and existing under
24 the constitution and laws of the State of California, located within the County of Contra Costa.

25 14. Respondent Richmond City Council is the duly-elected, governing body of the City
26 responsible for compliance with CEQA and for taking the actions to approve the MSA being
27 challenged herein. Does I-XX are respondents who participated in and bear legal responsibility
28 for the City's approval of the Project challenged herein.

1 15 Real party in interest Scotts Valley Band of Pomo Indians (“Band”) claims to be a
2 federally-recognized Indian tribe with which the federal government restored
3 government-to-government relations on February 12, 1992, and is a party to the MSA
4 approved by the City Council. The Band is the proponent of the Casino project described in the
5 MSA. Does XXI-L are real parties in interest who have direct financial or property interests in
6 developing the Casino project facilitated by the MSA challenged herein.

7 16. The interest of the Band in this lawsuit – establishing the legality of respondents’
8 actions in entering into the MSA without conducting required environmental review under
9 CEQA – is identical to that of respondents and thus will be adequately defended by respondents
10 if the Band declines to waive sovereign immunity.

11 17. The true names and capacities, whether individual, corporate, or otherwise, of
12 respondents Does I through XX, and real parties in interest Does XXI through L, are presently
13 unknown to petitioners, who therefore sue said respondents and real parties in interest by such
14 fictitious names. Petitioners will amend, or seek leave to amend, this Verified Petition when
15 they have been ascertained.

16 **FACTUAL BACKGROUND AND STATEMENT OF THE CASE**

17 18. In 2004, the Scotts Valley Band of Pomo Indians purchased several parcels of
18 property totaling approximately 30 acres on Parr Boulevard near Richmond Parkway in an
19 unincorporated area of Contra Costa County near Richmond, California, intending to develop
20 the property as a 225,000 square-foot Class III gaming facility with approximately 2,000 slot
21 machines and approximately 90 gaming tables.

22 19. In April 2005, the Band submitted a Fee-to-Trust application requesting that the
23 Secretary of the Interior accept the property into trust for the benefit and use of the Tribe,
24 claiming that the property qualifies as “Restored Lands” within the meaning of the Indian
25 Gaming Regulatory Act (“IGRA”), 25 U.S.C. § 2719(b)(1)(B)(i). The Band’s original
26 reservation was located in Lake County, California, and was disestablished by the Bureau of
27 Indian Affairs (“BIA”) in 1958. On information and belief, the Band has no ancestral ties to the
28 proposed Casino site.

1 20. The BIA is required by the National Environmental Policy Act, 42 U.S.C § 4321,
2 *et seq.* to prepare an Environmental Impact Statement (“EIS”) prior to taking the property into
3 trust for the benefit of the Band. In February 2006, the BIA released a Draft EIS reviewing the
4 fee-to-trust transfer. The City of Richmond submitted comments on the Draft EIS on April 28,
5 2006.

6 21. In or around November 2005, the Band approached the City of Richmond
7 intending to negotiate an MSA for the proposed Casino property. At that time, the City was a
8 signatory to a Land Disposition Agreement (“LDA”) purporting to facilitate the siting of a
9 casino proposed by the Guidiville Band of Pomo Indians on nearby lands at Point Molate. That
10 LDA contained an exclusivity clause preventing the City from negotiating with the Band. On
11 March 7, 2006, the City approved an amendment to that LDA that allowed the City to begin
12 negotiations with the Band for the MSA.

13 22. On November 14, 2006, the Richmond City Manager’s Office presented to the
14 City Council a report summarizing the background and terms of the MSA. As of that date, plans
15 for the proposed Casino project described uses totaling 1.3 million square feet, including a
16 240,000 square-foot casino, 160,000 square-foot parking garage, 105,000 square feet of water
17 retention area, and 800,000 square feet of landscaping, surface parking, and exits and entrances.
18 The proposed building height is 70 feet. The proposed Casino will include an events center,
19 several dining establishments, meeting spaces and retail shopping.

20 23. On November 21, 2006, the City Council voted to approve the MSA. Its approval
21 resolution, which petitioners challenge in this Verified Petition, included a statement that the
22 MSA and actions taken under the MSA are not “projects” for the purposes of CEQA.

23 24. The MSA provides that the City will receive, in exchange for the provision of
24 specified City services: (1) a non-recurring payment of \$8,234,500, \$7,100,000 of which is
25 earmarked for the construction of a new fire station and the remainder of which is earmarked for
26 new police and public works equipment; (2) an annual contribution of \$6,000,000 in years 1 and
27 2, \$8,000,000 in years 3 and 4, \$9,000,000 in years 5 and 6, and \$9,000,000 adjusted annually
28 by the Consumer Price Index in years 7-20; and (3) an annual payment of \$7,459,700, adjusted

1 annually by the Consumer Price Index, for the 20-year term of the MSA, intended to fund
2 salaries for new police, fire and public works personnel and equipment.

3 25. The MSA was signed by Irma L. Anderson, the Mayor of the City of Richmond,
4 and by Donald Arnold, Tribal Chairman of the Scotts Valley Band, on December 27, 2006.

5 **FIRST CAUSE OF ACTION**

6 **(Violation of CEQA for Inadequate Environmental Review)**

7 (Against All Respondents and Real Parties in Interest)

8 26. Petitioners hereby reallege and incorporate by this reference paragraphs 1 through
9 25, above, as though fully set forth herein.

10 27. Petitioners bring this First Cause of Action pursuant to Public Resources Code
11 sections 21168 and/or 21168.5, on the grounds that respondents failed to act in accordance with
12 law, and committed a prejudicial abuse of discretion, in that they considered and approved the
13 MSA without undertaking an analysis of the potential environmental impacts of the MSA and
14 the Casino project facilitated by the MSA, as required by CEQA. In approving the MSA,
15 respondents purported to find, instead, that their actions were not subject to CEQA.

16 28. Respondent City is a “public agency” within the meaning of CEQA. Respondents’
17 actions approving and carrying out the MSA are subject to the requirements of CEQA.

18 29. CEQA requires public agencies to conduct environmental review prior to the time
19 the agency approves any project that may have a significant impact on the environment. Pub.
20 Res. Code §§ 21002.1, 21061, 21100, 21151; 14 Cal. Code Regs. §15004(a). Under CEQA, the
21 term “project” means the “whole of an action, which has a potential for resulting in either a
22 direct physical change in the environment, or a reasonably foreseeable indirect physical change
23 in the environment.” 14 Cal. Code Regs. § 15378(a). The term “project” refers to the “activity
24 which is being approved and which may be subject to several discretionary approvals by
25 government agencies” and not the governmental approvals themselves. *Id.* § 15378(c).

26 30. “Approval” of a project, for purposes of CEQA, means a decision by the agency
27 “which commits the agency to a definitive course of action in regard to a project intended to be
28 carried out by any person.” *Id.* § 15352(a).

1 31. Respondents' consideration and approval of the MSA constitutes the "approval of a
2 project" with the potential for significant environmental impacts. Accordingly, respondents
3 were required to comply with CEQA prior to taking any action to approve the MSA and to
4 commit the City to the provision of municipal services in support of the Casino project.

5 32. Instead of conducting CEQA review of the MSA and underlying Casino project,
6 respondents purported to find that the approval of the MSA is not a project subject to CEQA,
7 because it is not an activity that may cause either a direct physical change in the environment, or
8 a reasonably foreseeable indirect physical change in the environment. Respondents asserted in
9 support of this finding that the City, in the course of approving the MSA, is not making any
10 commitment to (a) issue any lease, permit, license, certificate or entitlement for use, (b) develop,
11 construct or improve any facilities or cause any other physical change to the environment, or (c)
12 approve, shape or deliberate on the Secretary of the Interior's determination to accept title to the
13 property in trust for the Band's benefit.

14 33. The City and Band, in the MSA, agree that "the Tribe's intended use of the
15 Property for the development, construction, operation and maintenance of the Project will
16 present public safety and law enforcement issues which will require the coordinated efforts of
17 both Non-Tribal and Tribal Law Enforcement Agencies." The parties also agreed "that the
18 Tribe's development, construction, operation and maintenance of the Project will require
19 significant fire protection and emergency response services." As a result, the MSA commits the
20 City to use funds received from the Band to acquire additional law enforcement infrastructure,
21 equipment and personnel, and to perform fire protection improvements including either the
22 construction and operation of a new fire station within 1.5 miles of the Casino project, upgrades
23 to one or more of the City's current fire stations, or the consolidation and relocation of current
24 fire stations to a new location within 1.5 miles of the Casino project.

25 34. The MSA commits the Band to construct all sewer infrastructure and improvements
26 necessary for the Casino project and to use its best efforts to obtain sewage disposal services for
27 the property by connecting to the West Contra Costa County Sanitary District. The MSA also
28

1 commits the Band to use its best efforts to obtain a water supply for the property by connecting
2 to the East Bay Municipal Utilities District system.

3 35. The City and Band anticipate significant unavoidable cumulative traffic impacts as
4 a result of approved and planned projects in the area, and the MSA commits the Band to pay its
5 “proportionate share” of, or independently fund, several proposed mitigation measures,
6 including an additional north-bound lane on Richmond Parkway, a left-turn lane on the west-
7 bound Parr Boulevard approach to the Richmond Parkway, additional through lanes on Parr
8 Boulevard, a Richmond Parkway – San Pablo Avenue interchange, shuttle service to the Casino
9 from the proposed Richmond Parkway Transit Center and from the Richmond BART station,
10 sidewalks along the Casino’s Parr Boulevard frontage, bicycle racks on the property, and a Class
11 II bike lane along Goodrick Avenue between Parr Boulevard and Richmond Parkway.

12 36. The MSA commits the City to provide additional law enforcement, safety,
13 emergency response and security personnel for the Casino project at the Band’s request.

14 37. In making these findings and taking actions to approve the MSA, respondents
15 abused their discretion under CEQA. If there is any possibility that the action being approved
16 may cause a significant effect on the environment, directly or indirectly, the activity must
17 comply with CEQA. The commitments made by the City and the Band in the MSA approved
18 and signed by the City could result in a number of “reasonably foreseeable indirect physical
19 change[s] in the environment.”

20 38. The MSA requires the City to formally request that the Secretary of the Interior
21 accept title to the proposed Casino property in trust for the benefit of the Band for gaming
22 purposes, and to request that the City’s representatives in Congress and the State Legislature,
23 and the Governor of California, support and facilitate the acquisition of title to the property in
24 trust. Prior to its purchase in fee simple of the Casino project property, the Band has never
25 owned or had any historical connection to any land in Richmond in the vicinity of the property.
26 By agreeing to endorse the Band’s application to have the property taken into trust, the City also
27 endorses the removal of these lands from all local land use regulation, without prior
28 consideration of the potential environmental impacts of this endorsement.

1 39. The MSA requires the City to provide fire and police services on the terms
2 contained in the MSA, approved without any prior CEQA review.

3 40. The MSA expressly acknowledges that the Band does not grant or consent to any
4 jurisdiction of the State or any political subdivision or local government thereof over the
5 property or the design, development or construction of any improvements on the property.

6 41. The MSA provides that the Band will enact certain Tribal Ordinances substantially
7 equivalent to the building standards set forth in the California Building Code 2001 and the City
8 Building Code, the City's grading and soil erosion control standards, and the City's Sign
9 Ordinance, but unlike the City's ordinances, these Tribal Ordinances are not enforceable by the
10 City.

11 42. CEQA review cannot be deferred to a later stage of a project where the present
12 agency action serves as an essential step for a specific, known physical development project.
13 Contrary to the City Council's determination that there is no approval of a project for CEQA
14 purposes, "the Project" is well defined in the MSA as "a gaming facility and associated
15 amenities and administrative and support facilities" at the specific 30-acre site owned by the
16 Band.

17 43. CEQA review may not be deferred where deferral will impair an agency's ability to
18 give meaningful consideration to environmental impacts, alternatives and mitigation measures.
19 The impetus created by respondents' approval of the MSA renders meaningful future CEQA
20 review impossible. By approving the MSA, respondents have publicly declared their
21 commitment to allow Indian gaming on the Band's property on Parr Boulevard. The MSA
22 provides that "significant law enforcement, fire protection, emergency service responders and
23 public works *will be required* by the Tribe's development, construction, operation and
24 maintenance of the Project," and by committing to provide such law enforcement, fire
25 protection, emergency service response and public works, the City allows the project to proceed.
26 MSA at page 2, emphasis added.

27 44. CEQA mandates environmental review "as early as feasible in the planning process
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1 to enable environmental considerations to influence project program and design” where, as here,
2 the proposed use of the property is sufficiently defined “to provide meaningful information for
3 environmental assessment.” 14 Cal. Code Regs. § 15004(b). By approving the MSA,
4 respondents have committed the City to promoting, and assisting the Band in carrying out, “the
5 Project” without first conducting any CEQA review, thereby placing the Project “cart” before
6 the CEQA “horse.” Accordingly, respondents’ approval of the MSA violates CEQA. Before
7 considering the MSA for approval, respondents must conduct the environmental review required
8 by CEQA. Such review would consider the following reasonably foreseeable environmental
9 impacts, among others, that are likely to result from the Project:

- 10 (a) Vastly increased traffic on Parr Boulevard and Richmond Parkway as well as other
11 streets within the City, potentially backing up traffic for miles;
- 12 (b) Substantially increased noise and air pollution from this increased traffic;
- 13 (c) Construction-related impacts of the Project including all related buildings, roads, and
14 improvements;
- 15 (d) Construction of new water treatment facilities and acquisition of real property
16 therefor;
- 17 (e) Construction of a new fire station to address fire prevention and emergency services
18 for the property;
- 19 (f) Provision of municipal water to the Project;
- 20 (g) Construction of unspecified new sewer infrastructure and acquisition of real property
21 therefor; and
- 22 (h) Increased crime and fire danger and demand for police, fire and other emergency
23 services.

24 45. By approving the LDA before examining its impacts on the foregoing
25 environmental factors in an environmental impact report, respondents violated CEQA.

26 46. On May 21, 2007, petitioners faxed and mailed notice to the City, in accordance
27 with Public Resources Code section 21167.5, informing it of petitioners’ intention to file this
28 action immediately.

1 47. Concurrently with the filing of this Verified Petition, petitioners have provided
2 notice of the pendency of this proceeding to the California Attorney General as required by
3 Public Resources Code section 21167.7 and Code of Civil Procedure section 388.

4 48. Petitioners seek appropriate injunctive relief to prevent respondents and the Band
5 from attempting to implement any part of the MSA before this action is resolved on its merits.
6 Respondents and the Band are threatening to proceed with the implementation of the MSA by,
7 inter alia, representing to Federal and State agencies with authority over use of the proposed
8 Casino property, and over its conversion to Indian Trust status, that the MSA is valid and
9 provides for necessary services to the Project, and that respondents support the Project based on
10 the MSA.

11 49. At all times mentioned herein, respondents were able to conduct environmental
12 review and analysis of the Project as required by CEQA. Despite such ability, respondents have
13 failed and continue to fail to perform their duty to withhold consideration of the MSA until they
14 have conducted CEQA review.

15 50. If respondents are not ordered to set aside their approval of the MSA, petitioners
16 and the public will be irreparably harmed. Petitioners have no plain, speedy, and adequate
17 remedy in the ordinary course of law in that, unless this Court issues its writ of mandate or
18 injunctive relief vacating respondents' approval of the MSA and requiring respondents to
19 comply with CEQA, respondents' approval challenged herein would violate applicable statutory
20 and common law. No monetary damages or other legal remedy could adequately compensate
21 petitioners for the harm to essential environmental reviews, orderly land planning processes, and
22 environmental quality threatened by respondents' approvals.

23 51. An actual controversy exists between petitioners and respondents. Petitioners
24 contend that respondents have acted in violation of the statutory and common laws as alleged
25 hereinabove, and must therefore vacate and set aside their approvals of the Project. Petitioners
26 are informed and believe, and thereon allege, that the other parties dispute these contentions. A
27 judicial resolution of this controversy is therefore necessary and appropriate.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, petitioners pray for relief as follows:

- 3 1. For a peremptory writ of mandate directing respondents to set aside and vacate
4 their approval of the MSA;
- 5 2. For declaratory relief declaring the MSA to be unlawful;
- 6 3. For a temporary restraining order, stay order, and preliminary and permanent
7 injunctions, enjoining and restraining respondents and their officials, agents, employees,
8 representatives, and all persons acting in concert or participating with them from (a)
9 communicating to the Bureau of Indian Affairs, the United States Department of the Interior, or
10 any other person, agency or entity, either orally or in writing, any approval or support by or on
11 behalf of respondents for the application of the Band to have the property taken into Trust based
12 on the MSA, (b) performing in any manner any other duty or obligation of respondents as set
13 forth in the MSA, (c) taking any other action to implement or pursue the MSA pending
14 compliance with CEQA and the State CEQA Guidelines, and (d) expending any funds received
15 from the Band pursuant to the MSA;
- 16 4. For attorneys' fees under Code of Civil Procedure section 1021.5;
- 17 5. For costs incurred in this action; and
- 18 6. For such other equitable or legal relief as the Court may deem just and proper.

19
20 Dated: May 21, 2007

Respectfully submitted,

21
22 LAW OFFICES OF STEPHAN C. VOLKER

23 By: /s/ Stephan C. Volker

24 Stephan C. Volker
25 Attorney for Petitioners
26 PARCHESTER VILLAGE NEIGHBORHOOD
27 COUNCIL, CITIZENS FOR EAST SHORE
28 PARKS, SUSTAINABILITY, PARKS,
RECYCLING AND WILDLIFE DEFENSE FUND,
and WHITNEY DOTSON

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VERIFICATION

I, Stephan C. Volker, hereby declare:

I am the attorney for petitioners and make this Verification because petitioners are absent from the County where I maintain my office. I have read the attached Petition. I am informed and believe, and on that basis allege, that the allegations contained therein are true to the best of my information and good faith belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Verification was executed on May 21, 2007 in Oakland, Alameda County, California.

/s/ Stephan C. Volker
STEPHAN C. VOLKER