DAMIEN M. SCHIFF, No. 235101
ANTHONY L. FRANÇOIS, No. 184100
WENCONG FA, No. 301679
Pacific Legal Foundation
930 G Street
Sacramento, California 95814
Telephone: (916) 419-7111
Facsimile: (916) 419-7747

Attorneys for Petitioner
California Cattlemen's Association

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CENTRAL DISTRICT

CALIFORNIA CATTLEMEN'S ASSOCIATION, a California public interest organization, Petitioner, v. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE, a state agency; CHARLTON BONHAM, in his official capacity as Director of the California Department of Fish and Wildlife, Respondents.	No. 37-2016-00006135-CU-WM-CTL **PETITIONER'S OPPOSITION TO DEMURRER** IMAGED FILE Date: December 9, 2016 Time: 8:30 a.m. Dept.: C-65 Judge: Joan M. Lewis Trial Date: None set Action Filed: February 24, 2016

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

TABLE OF CONTENTS

Page

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

TABLE OF AUTHORITIES

Page

Cases

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

Page

Federal Statutes

State Statutes

Miscellaneous

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

INTRODUCTION

The California Cattlemen's Association (Association) seeks a writ of mandate directing the California Department of Fish and Wildlife (Department) to comply with the California Endangered Species Act (Act or CESA) and conduct overdue status reviews for 233 species. The Department has demurred on two grounds. First, the Department contends that the California Fish and Game Commission's (Commission) listing petition process provides an administrative remedy that the Association must exhaust before seeking a writ. Second, the Department insists that the Association lacks standing to sue in state court. Both arguments are wrong.

First, the exhaustion argument misconstrues the Association's claim for relief. The Association's writ petition seeks an order compelling the Department to carry out its mandatory duty to conduct periodic status reviews under the Act, not an order requiring the Commission — a separate state agency — to list or delist any species. Pet. at 32 ¶ 2 (specifying the requested relief). Second, the Association has public interest standing. This writ petition is a typical petition whose "object . . . is to procure the enforcement of a public duty." *Save the Plastic Bag Coal. v. City of Manhattan Beach*, 52 Cal. 4th 155, 166 (2011) (quoting *Bd. of Soc. Welfare v. Cty. of L.A.*, 27 Cal. 2d 98, 100-01 (1945)). Both the legislature and courts have recognized the paramount public interest in protecting native wildlife under the Act — and the competing considerations alleged by the Department do not outweigh this interest. The demurrer should be overruled.

FACTUAL AND PROCEDURAL BACKGROUND

A. Legal Standard

The Association's writ petition seeks an order compelling the Department to conduct overdue status reviews for 233 species, which the Commission listed long ago as threatened or endangered, but whose current conservation status is presently unknown. The Department demurred. The Association opposes the demurrer.

Demurrer is appropriate only where a defect appears on the face of the challenged pleading. Code of Civ. Proc. § 430.30. On demurrer, the petition "must be liberally construed, with a view toward substantial justice between the parties." Code of Civ. Proc. § 452; *Stevens v. Superior Court*, 75 Cal. App. 4th 594, 601 (1999). The Court gives "the petition a reasonable interpretation,

reading it as a whole and viewing its parts in context." *Blank v. Kirwan*, 39 Cal. 3d 311, 318 (1985). The Court must "deem to be true all material facts that were properly pled," along with "those facts that may be implied or inferred from those expressly alleged." *City of Morgan Hill v. Bay Area Quality Mgmt. Dist.*, 118 Cal. App. 4th 861, 869 (2004). "If the petitioner has stated a cause of action under any possible legal theory," the demurrer will be overruled. *Id*. at 870.

B. The California Endangered Species Act

In 1970, California was one of the first states to establish a framework for the protection of endangered wildlife. *See NRDC v. Fish & Game Comm'n*, 28 Cal. App. 4th 1104, 1111 (1994). In 1984, the state legislature enacted the current version of the California Endangered Species Act, Fish and Game Code, § 2050 *et seq.*,[1] to promote the "ecological, educational, historical, recreational, esthetic, economic, and scientific value" that wildlife bring to "the people of this state." § 2051(c). Patterned after the Federal Endangered Species Act, the California Act recognizes that "conservation, protection, and enhancement of the species and their habitat is [also] of statewide concern." *Id.*

To facilitate the conservation, protection, and enhancement of endangered or threatened native species, the Act implements various protections for species listed as threatened or endangered. *See, e.g.*, § 2080 (prohibiting the "take" of listed species). Under the Act, an endangered species is *currently* "in serious danger of becoming extinct," § 2062, and a threatened species "although not *presently* threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by [the Act]." § 2067 (emphasis added).

The Act delegates different duties to different agencies. The Fish and Game Commission is charged with listing species as endangered or threatened under the Act. §§ 2070, 2071. The Department of Fish and Wildlife, as a result of these listings, must conduct five-year status reviews for every species listed under the Act, to provide updated information regarding the current condition of each species. § 2077.

[1] Unless otherwise noted, all statutory references are to the Fish and Game Code.

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

C. The Department's Obligation to Conduct Five-Year Status Reviews

The Act directs the Department of Fish and Wildlife to "review species listed as an endangered species or as a threatened species to determine if the conditions that led to the original listing are still present." § 2077(a). Current knowledge of California's wildlife is foundational to the conservation of species under the Act. Both the ESA and the Act require reviews of every listed species every five years. *See NRDC v. Fish & Game Comm'n*, 28 Cal. App. 4th 1104, 1117-18 (1994) (federal ESA should be used to interpret similar provisions under the California Act).

Current information about threatened or endangered species is also needed to afford them the protection contemplated in the Act. *Cf. e.g.*, *Envtl. Council of Sacramento v. City of Sacramento*, 142 Cal. App. 4th 1018, 1024-27 (2006) (detailing conservation plans for listed species). Current information is necessary to calibrate conservation plans and protections to the actual condition of the species, to ensure adequate protection while also avoiding regulatory limitations and restrictions that are excessive based on a species' current condition. Without periodic status reviews, the Department cannot ascertain whether the statute has met its ultimate goal in rehabilitating the population of listed species "to the point at which the measures provided are no longer necessary." § 2061.[2]

D. The Department's Duty To Conduct Status Reviews for All Listed Species Is Distinct from the Commission's Duty To List Species

The Commission's duty to consider petitions to list species is different from the Department's mandatory duty to conduct five-year status reviews of species that the Commission has already listed. The legislature, through different sections of the Fish and Game Code, assigned each agency distinct tasks.

///

[2] The federal government conducts five-year status reviews under the federal Endangered Species Act (ESA). Recent federal status reviews revealed that the listings of seven species — all of which are also listed under the Act — did not comport with current conditions. *See* Pet. ¶ 24 at p. 5 (Modoc Sucker, San Clemente Island Indian Paintbrush, San Clemente Island larkspur, Santa Cruz Cypress, Beach Layia, San Clemente Island bush-mallow, and the Least Bell's vireo).

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

The listing petition process allows an "interested person" to petition the Commission to list a particular species. § 2071.[3] The Commission considers input from the Department to determine if the listing is warranted, including a status review. § 2071.5. Separately, the Act requires the Department to conduct status reviews for *each* listed species every five years following their listing. § 2077. The Department's mandatory five-year status reviews are not *part* of the Commission's listing petition process; they are a *result* of that process.

ARGUMENT

I

THE ASSOCIATION NEED NOT PETITION THE COMMISSION BEFORE IT ASKS THE DEPARTMENT TO CONDUCT MANDATORY FIVE-YEAR STATUS REVIEWS

The Association has no administrative remedies to exhaust before the Commission. The Association's writ is directed at the performance of the post-listing status reviews, which are required as the result of the Commission's listing decisions, rather than altering the listing status of any particular species before the Commission. The exhaustion of administrative remedies doctrine "bars the pursuit of a judicial remedy by a person to whom administrative action was available for the purpose of enforcing the right [Petitioner] seeks to enforce in court . . . ." *Citizens for Open Gov't v. City of Lodi*, 144 Cal. App. 4th 865, 874 (2006).

As plainly stated in its petition, the Association is seeking an order directing the Department to conduct overdue status reviews for the 233 species already listed by the Commission. Pet. at 32 ¶ 2 (requesting "a writ of mandate directing the Respondents to conduct the status reviews mandated by § 2077 . . . . "). The Department, rather than the Commission, is solely responsible for conducting such reviews. § 2077(a) ("The department shall review species listed as an endangered species or as a threatened species every five years . . . ."). Nothing in the Act provides the Association an administrative procedure to require the Department to perform the mandatory five-year reviews of species already listed by the Commission. Accordingly, the "exhaustion requirement does not apply" because "no administrative remedy is available" for the

[3] "Listing" includes the Department's power to delist or alter the listing of a particular species under the Act.

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

Association to obtain its requested relief. *Eight Unnamed Physicians v. Medical Exec. Comm. of Medical Staff of Washington*, 150 Cal. App. 4th 503, 511 (2007).

The Department misrepresents the petition as an attempt "to remove or re-designate hundreds of species currently protected under the [Act]." Demurrer at 1. The Association's writ petition does not demand a different listing for any species, but rather a status review for all species that are currently listed, as the law requires. Five-year status reviews are not conditioned on any petition to the Commission, and do not even require the Commission to revisit any species' listing status. *See* § 2077.

And although a petition to the Commission may lead to a petition-related status review as part of the listing decision, the availability of the listing petition process does not excuse the Department's failure to conduct mandatory post-listing five year reviews. The status review in response to a listing petition is different from the one triggered by the Act's post-listing five-year deadlines, as is plain from multiple provisions in the Act. First, the statute that mandates five-year status reviews specifies that "[notwithstanding] any other provision of this section, the commission or the department may review a species at any time based upon a petition . . . ." § 2077. Second, only an "interested person" may petition the Commission to list "the petitioned species." § 2073.4. By contrast, the CESA requires five-year status reviews of "each listed species." § 2077(e). Third, a status review triggered by a listing petition to the Commission is performed only if "a petition is accepted by the commission." §§ 2074.4, 2074.6. The Department, however, "shall review" endangered and threatened "species every five years" after the Commission has listed them. § 2077.

Decisions interpreting the federal government's obligation to conduct status reviews under the federal Endangered Species Act further debunk the Department's exhaustion argument. The listing petition process is available under both the ESA and the California Act. *Compare* 16 U.S.C. § 1533(b)(3)(A), *with* § 2072.3. Nonetheless, federal courts have never held that the petition process is an administrative remedy that a petitioner must exhaust before compelling the Department to perform its "mandatory and nondiscretionary duty" to conduct status reviews.

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

Florida Home Builders Ass'n v. Norton, 496 F. Supp. 2d 1330, 1333 (M.D. Fla. 2007).[4] This Court should use that authority to guide its interpretation of the California Act. *See NRDC*, 28 Cal. App. 4th at 1117-18.[5]

II

THE ASSOCIATION HAS STANDING TO CHALLENGE THE DEPARTMENT'S FAILURE TO CONDUCT MANDATORY FIVE-YEAR STATUS REVIEWS FOR 233 SPECIES UNDER THE CALIFORNIA ENDANGERED SPECIES ACT

A. The Association's Petition Furthers a Significant Public Interest in Compelling the Department to Conduct Five-Year Status Reviews

The Association has standing to compel the Department of Fish and Wildlife to conduct mandatory five-year status reviews as directed by the Act. "[W]here the question is one of public right and the object of the mandamus is to procure the enforcement of a public duty," the Association "need not show that [it] has any legal or special interest in the result, since it is sufficient that [it] is interested as a citizen in having the laws executed and the duty in question enforced." *Save the Plastic Bag Coal.*, 52 Cal. 4th at 166 (quoting *Bd. of Soc. Welfare*, 27 Cal. 2d at 100-01). This variety of standing — often referred to as public interest standing — "promotes the policy of guaranteeing citizens the opportunity to ensure that no governmental body impairs or defeats the purpose of legislation establishing a public right." *Green v. Obledo*, 29 Cal. 3d 126, 144 (1981).

The Association's petition seeks to compel the Department to fulfill its obligation to perform five-year status reviews. The plain text of the statute belies the Department's argument that its duty to comply with "five-year deadlines [is], at most, a directory and not a mandatory

---

[4] Although the decision does not mention the petition process, the complaint in that case elaborates that the only step the plaintiff took before filing the lawsuit was serving a 60-day notice of action as required by federal law. *See* Compl. ¶ 4, *available at* 2005 WL 3612288.

[5] Because the Association has petitioned for traditional mandamus, "the exhaustion requirement speaks to whether there exists an adequate legal remedy" for the relief sought. *City of Oakland v. Oakland Police and Fire Retirement System*, 224 Cal. App. 4th 210, 235 (2014). For the reasons explained in this section, the listing petition process is inadequate to provide status reviews for "each species" listed for more than five years. § 2077.

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

duty."[6] Demurrer at 12. In other parts of the statute, the legislature used language connoting discretion on part of the Department. *See* § 2077(d) ("Notwithstanding any other part of this section, the commission or the department *may* review a species at any time based upon a petition or upon other data available to the department and the commission." (emphasis added)). But in requiring periodic status reviews, the legislature used the term "shall" to describe the Department's mandatory obligation. *See Walt Rankin & Assoc., Inc. v. City of Murrieta*, 84 Cal. App. 4th 605, 614 (2000) ("usual rule with California codes" is that "shall" is mandatory and "may" is permissive); *Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998) ("The Panel's instruction comes in terms of the mandatory 'shall,' which normally creates an obligation impervious to judicial discretion."). It is therefore unsurprising that the federal government's analogous "duty to conduct status reviews every five years is a mandatory and nondiscretionary duty . . . ." *Florida Home Builders Ass'n*, 496 F. Supp. 2d at 1333. The Department's duty under the Act should be viewed the same way. *NRDC*, 28 Cal. App. 4th at 1117-18 (federal ESA should be used to interpret similar provisions under the Act).

The Department invokes only a single case to rebut this settled rule of statutory interpretation. But that case does not help the Department. In *Woods v. Department of Motor Vehicles*, the California Court of Appeal considered a writ petition from a driver whose license was suspended for failing to provide proof of financial responsibility after an automobile accident. 211 Cal. App. 3d 1263, 1265 (1989). Petitioner invoked a statute that granted him a right to a formal hearing within 30 days, but the hearing was not conducted for nearly three months. *Id.* But, unlike this case, Woods did not seek to enforce the DMV's duty to conduct hearings within 30 days. Rather, the "sole issue" presented was whether the DMV's failure to conduct a timely hearing necessarily invalidated suspension of Woods' driver's license. *Id.* at 1266.

[6] As discussed below, the "directory" language relates to whether the government's failure to conduct a mandatory task excuses a petitioner's own failure to comply with the statute. The Association's petition, however, concerns only the Department's mandatory task to conduct status reviews, and no obligation of the Association. *See Woods v. Department of Motor Vehicles*, 211 Cal. App. 3d 1263, 1266 (1989) (the mandatory-permissive dichotomy refers to whether the government is required to follow a procedure; the mandatory-directory duality "denotes whether failure to comply" will invalidate "the governmental action to which the procedural requirement relates").

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

The *Woods* court construed the word "shall" to impose a mandatory duty to conduct hearings within 30 days. *Id.* It ruled against the petitioner, however, because the statute was directory in the sense that "failure to comply" will not necessarily "have the *effect* of invalidating the governmental action to which the procedural requirement relates." *Id.* at 1267 (emphasis added). Here, however, the Association is not seeking to invalidate any particular consequence of the Department's failure to conduct the mandatory status reviews — *e.g.*, prosecution for the "take" of a species for which the status reviews have not been conducted. Rather, this is a quintessential public interest lawsuit that is intended to get the Department to conduct the status reviews — and nothing more.

The court in *Woods* also explained that the purpose of the hearing deadline in that case was to "promptly suspend[] financially irresponsible drivers," and that such purpose "would not be served by allowing [Petitioner] to avoid suspension altogether." *Id.* at 1270. Consequently, granting Woods his requested relief, *i.e.*, invalidating the suspension of his driver's license, would have been "wholly inconsistent with the Legislature's intent in pass[ing] the financial responsibility laws." *Id.* at 1268. Here, however, the Association is only seeking to get the Department to conduct the status reviews, which furthers the purposes of the Act.

The Department's mandatory duty to regularly assess the condition of listed species serves the weighty public interest in the effective protection and management of California wildlife. The legislative policy, as stated in the Act, is to "conserve, protect, restore, and enhance any endangered species or any threatened species and its habitat." § 2052; *cf. Hector F. v. El Centro Elementary Sch. Dist.*, 227 Cal. App. 4th 331, 341 (2014) (finding public interest standing by reference to the interests articulated in the statutory text). The Act employs various mechanisms to reach its goal of bringing endangered and threatened species to the point at which such mechanisms "are no longer necessary," § 2061, which presumes knowledge of the current status of those species. The status reviews therefore play an integral part in "[t]he protection and preservation of California's wildlife," which the Department recently represented to the courts as "of unquestionably great public interest." Department's Brief, *Pac. Shores Prop. Owners Ass'n v. Dep't of Fish and Game*, 2013 WL 7087194, at 37 (Sac. Sup. Ct., Nov.1, 2013) (citing § 2052).

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

California courts have affirmed the weighty public interest in protecting endangered species under the Act, and construe its provisions liberally, in light of the "great remedial and public importance" of the Act. *San Bernardino Valley Audubon Soc'y. v. City of Moreno Valley*, 44 Cal. App. 4th 593, 601 (1996). It is universally accepted that "CESA embodies a significant public policy and enforcing it constitutes an important public interest." *CBD v. Cal. Fish and Game Comm'n*, 195 Cal. App. 4th 128, 139 (2011).

The public interest in enforcing the Act — as recognized by the legislature and courts — is more than sufficient to endow the Association with standing to bring this lawsuit. "[S]trict rules of standing that might be appropriate in other contexts have no application where broad and long term [environmental] effects are concerned." *Save the Plastic Bag Coal.*, 52 Cal. 4th at 170 (quoting *Bozung v. Local Agency Formation Comm'n*, 13 Cal. 3d 263, 272 (1975)).

That the Association is seeking relief from the Department, not the Commission, confirms that it is seeking to further the public interest. Rather than petitioning the Commission for a different listing of a particular species, the Association sued the Department for failing to conduct status reviews of 233 species listed under the CESA. By doing so, the petition vindicates the public interest in current information about each species, and restoring the population of each species that is currently threatened or endangered. *See* § 2052 (It is the public policy of the state to "conserve, protect, restore, and enhance *any* endangered species or *any* threatened species . . . .") (emphasis added). In short, in enforcing the mandatory status reviews under the CESA, the Association is vindicating the public interest.

B. No Competing Considerations Outweigh the Substantial Public Interest in Compelling the Department To Conduct Mandatory Five-Year Status Reviews

There are no competing considerations of a more urgent nature that outweigh the Association's standing to sue in the public interest. *See Carsten v. Psychology Examining Comm'n*, 27 Cal. 3d 793. 797-99 (1980). The Department relies on two cases for its contrary argument, but those cases bear little relation to the circumstances here.

Carsten involved a lawsuit brought by a dissident board member of the agency responsible for licensing psychologists. The board member disagreed with the board's decision to approve

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

applicants who had achieved a passing grade on a national examination rather than the 75 percent grade required by state law — and then sued to reverse that decision. The California Supreme Court refused to provide the plaintiff with standing in light of her participation, as a board member, in the very decision she subsequently challenged in court. Here, however, the Association has no role in the Department's neglect of its duty to conduct five-year status reviews. For that reason, the "conflicts of interest and perpetuation of litigation which were of concern in *Carsten* are not present here." *Hector F.*, 227 Cal. App. at 342.

Sacramento County Fire Protection Dist. v. Sacramento County Assessment Board, 75 Cal. App. 4th 327 (1999), is similarly off point. There, a fire district challenged the local assessment board's acceptance of a stipulation, between the county assessor and a landowner, which substantially reduced the value of the land. *Id*. at 331-34. The court declined to grant standing to the fire district because doing so would undermine the assessment process, in which the district's interests were adequately represented by the county. This case, however, does not involve a public agency's attempt to challenge an agreement between another agency and a third party. The Association's challenge thus does not threaten to "undermin[e] a carefully developed statutory scheme which delegates responsibility among local agencies." *Hector F.*, 227 Cal. App. at 342. On the contrary, a writ of mandate here would direct the Department to do precisely the task assigned to it by the Act. The Association is not in the "unique position" that foreclosed standing for the petitioners in *Carsten* or *Sacramento County Fire Protection District*. *Id.*

Further, the Department's contention that public interest standing is inappropriate, because it would "redirect [] limited resources," proves far too much. The government must redirect resources any time it is ordered to follow the law. Requiring the Department to conduct status reviews in accordance with the Act does not redirect resources any more than compelling an elementary school to follow California anti-discrimination law, *see Hector F.*, 227 Cal. App. at 342, or forcing a city to prepare an environmental impact report, *See Save the Plastic Bag Coal.*, 52 Cal. 4th at 160. The Department's assertion misses the whole point of a status review: to direct resources away from projects that are optional — and into projects that are mandatory. § 2077.

///

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

The Department's problem with "limited resources" plagues all government entities, and the legislature was well aware of the state's limited resources at the time it enacted the Act. *See* Governor's Budget for 1983-84 at 6 (estimating a budget deficit of 446 million).[7] Nonetheless, the Act reflects the legislative judgment that the public interest served by regular status reviews of listed species outweighs the costs. In any event, elementary schools and municipal government — entities with smaller coffers than the state — cannot insulate themselves from judicial review by noting that their resources are limited; neither can the Department in this case. The Department should "take up [financial] constraints with [the legislature] rather than let mandatory deadlines expire with inaction." *Florida Home Builders Ass'n*, 496 F. Supp. 2d at 1336.[8]

CONCLUSION

The Department's motion for a demurrer should be overruled.

DATED: November 23, 2016.

Respectfully submitted,

DAMIEN M. SCHIFF
ANTHONY L. FRANÇOIS
WENCONG FA
Pacific Legal Foundation

By _____
WENCONG FA

Attorneys for Petitioner
California Cattlemen's Association

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

[7] http://lao.ca.gov/reports/1983/the_governors_budget_for_1983-84.pdf.

[8] To be sure, the Department's assumption that performing status reviews would deplete its coffers is speculative at best; it presumes that the legislature will never fund the Department adequately for the Department's responsibilities under the CESA.

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

DECLARATION OF SERVICE BY MAIL

I, Laura Reich, declare as follows:

I am a resident of the State of California, residing or employed in Sacramento, California.

I am over the age of 18 years and am not a party to the above-entitled action.

My business address is 930 G Street, Sacramento, California 95814.

On November 23, 2016, a true copy of **PETITIONER'S OPPOSITION TO DEMURRER** was placed in an envelope addressed to:

Office of the Attorney General
Attn: Phillip M. Hoos, Deputy Attorney General
600 West Broadway, Suite 1800
San Diego, CA 92101-3375

which envelope, with postage thereon fully prepaid, was then sealed and deposited in a mailbox regularly maintained by the United States Postal Service in Sacramento, California.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 23rd day of November, 2016, at Sacramento, California.

Laura Reich