

1 JEFFREY D. DINTZER (SBN 139056)  
2 MATTHEW C. WICKERSHAM (SBN 241733)  
3 DANA L. CRAIG (SBN 251865)  
4 GIBSON, DUNN & CRUTCHER LLP  
5 333 South Grand Avenue, 54th Floor  
6 Los Angeles, CA 90071-3197  
7 Telephone: (213) 229-7000  
8 Facsimile: (213) 229-7520  
9 Electronic Mail: jdintzer@gibsondunn.com

10 Attorneys for Petitioners and Plaintiffs  
11 CHEVRON U.S.A. INC.; KEY ENERGY SERVICES,  
12 LLC; ENSIGN UNITED STATES DRILLING  
13 (CALIFORNIA) INC.; MAUREEN WRUCK; PETER  
14 ORRADRE; MARTIN ORRADRE; JAMES ORRADRE;  
15 STEPHEN MAURICE BOYUM; and SAN ARDO  
16 UNION ELEMENTARY SCHOOL DISTRICT

17 [Additional Counsel listed on subsequent page]

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 FOR THE COUNTY OF MONTEREY

20 CHEVRON U.S.A. INC., a Pennsylvania  
21 corporation; KEY ENERGY SERVICES, LLC, a  
22 Texas limited liability company; ENSIGN  
23 UNITED STATES DRILLING (CALIFORNIA)  
24 INC., a California corporation; MAUREEN  
25 WRUCK, an individual; PETER ORRADRE, as  
26 Trustee to the 2002 Peter Orradre Revocable  
27 Trust and the 1994 Foletta Children's Trust;  
28 MARTIN ORRADRE, as Trustee to the 2008  
Martin Orradre Revocable Trust; JAMES  
ORRADRE, as Trustee to the 2004 James  
Orradre Revocable Trust; STEPHEN MAURICE  
BOYUM, as Trustee to the Boyum Family Trust;  
and SAN ARDO UNION ELEMENTARY  
SCHOOL DISTRICT, a California public school  
district,

Petitioners and Plaintiffs,

v.

COUNTY OF MONTEREY, a municipal  
corporation; and DOES 1 through 25, inclusive,

Respondents and Defendants.

CASE NO. 16CV003978

**VERIFIED PETITION FOR WRIT OF  
MANDAMUS [CCP SECTION 1085 OR  
1094.5] AND COMPLAINT FOR DAMAGES  
AND DECLARATORY RELIEF**

**JURY TRIAL DEMANDED**

1 TODD W. SMITH (SBN 235566)  
2 AMY HIGUERA (SBN 232876)  
3 THE THOMAS LAW GROUP  
4 455 Capitol Mall, Suite 801  
5 Sacramento, CA 95814  
6 Telephone: (916) 715-4288  
7 Facsimile: (916) 737-5858  
8 Electronic Mail: tsmith@thomaslaw.com

9 Attorneys for Petitioners and Plaintiffs  
10 CHEVRON U.S.A. INC.; KEY ENERGY SERVICES,  
11 LLC; ENSIGN UNITED STATES DRILLING  
12 (CALIFORNIA) INC.; MAUREEN WRUCK; and SAN  
13 ARDO UNION ELEMENTARY SCHOOL DISTRICT  
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1 Petitioners and Plaintiffs CHEVRON U.S.A. INC. (“Chevron”); KEY ENERGY SERVICES,  
2 LLC; ENSIGN UNITED STATES DRILLING (CALIFORNIA) INC.; MAUREEN WRUCK  
3 (collectively, “Business Partners”); PETER ORRADRE, AS TRUSTEE TO THE 2002 PETER  
4 ORRADRE REVOCABLE TRUST AND THE 1994 FOLETTA CHILDREN’S TRUST; MARTIN  
5 ORRADRE, AS TRUSTEE TO THE 2008 MARTIN ORRADRE REVOCABLE TRUST; JAMES  
6 ORRADRE, AS TRUSTEE TO THE 2004 JAMES ORRADRE REVOCABLE TRUST; STEPHEN  
7 MAURICE BOYUM, AS TRUSTEE TO THE BOYUM FAMILY TRUST (collectively “Royalty  
8 Owners”); and SAN ARDO UNION ELEMENTARY SCHOOL DISTRICT ( the “School District”)  
9 (collectively “Plaintiffs”) hereby petition this Court for a writ of mandamus pursuant to Code of Civil  
10 Procedure Section 1085 (or alternatively under Section 1094.5), directed to Respondent and  
11 Defendant COUNTY OF MONTEREY (“County”), and hereby bring the within Complaint for  
12 Declaratory Relief and Damages. By this verified pleading, Plaintiffs hereby allege as follows:

13 **I.**

14 **INTRODUCTION**

15 1. This action challenges the initiative adopted in the County of Monterey, formally  
16 titled “Initiative to Prohibit Fracking and Oil and Natural Gas Well Stimulation Treatments,  
17 Prohibit Oil and Natural Gas Wastewater Injection and Impoundment, and Limit New Oil and  
18 Natural Gas Operations in Unincorporated Monterey County” (“Measure Z”). Plaintiffs are  
19 informed and believe that Measure Z was passed by the voters of Monterey County on November  
20 8, 2016 and will be effective as a matter of law on December 23, 2016. Measure Z amended the  
21 Monterey County General Plan, Monterey County Local Coastal Program, and Fort Ord Master  
22 Plan.

23 2. In the Petition for Writ of Mandamus, Plaintiffs seek a writ of mandamus  
24 compelling the County to vacate and rescind the amendments adopted by Measure Z because they  
25 are preempted by federal and state law, and are arbitrary, irrational, vague and discretionary.

26 3. In the Complaint for Declaratory Relief and Damages, Chevron and Royalty Owners  
27 seek declaratory relief and damages on the grounds that:  
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- 1 a. Chevron has a vested right to continue its operations at the San Ardo Oil Field,  
2 located in San Ardo, California, within the jurisdiction of Monterey County (the  
3 “San Ardo Oil Field”), which may not be abridged absent due process and a  
4 finding of nuisance or payment of adequate compensation.
- 5 b. The adoption of Measure Z is a temporary and permanent taking of Chevron’s and  
6 the Royalty Owners’ private property for public use without prior compensation in  
7 violation of Article I, section 19 of the California Constitution and the Takings  
8 Clause of the Fifth Amendment of the United States Constitution, as incorporated  
9 by the Fourteenth Amendment.
- 10 c. The adoption of Measure Z violates Chevron’s and the Royalty Owners’ right to  
11 substantive due process under Article I, section 7 of the California Constitution  
12 and the Fourteenth Amendment of the United States Constitution. Measure Z  
13 infringes Chevron’s and the Royalty Owners’ property rights in an arbitrary,  
14 irrational, and discretionary manner, which is not related to any legitimate  
15 governmental purpose.

16 4. In pursuing this action, which involves enforcement of important rights affecting the  
17 public interest, Plaintiffs will confer a substantial benefit on the general public, citizens of  
18 Monterey County and the State of California, and therefore will be entitled to attorneys' fees and  
19 costs pursuant to, inter alia, Code of Civil Procedure section 1021.5. In addition, Chevron and the  
20 Royalty Owners will be entitled to recover attorneys’ fees and costs as part of their claim for  
21 inverse condemnation pursuant to, inter alia, Code of Civil Procedure section 1036.

22 **II.**

23 **PARTIES**

24 5. Petitioner and Plaintiff Chevron U.S.A. Inc. (“Chevron”) is a Pennsylvania  
25 corporation, and does business in the County of Monterey, California. Chevron currently acts as an  
26 operator of the San Ardo Oil Field, which is affected by Measure Z. As such, Chevron has a  
27 beneficial interest in the issuance of the writ of mandamus and complaint sought herein.

1           6.       Plaintiff and Petitioner Key Energy Services, LLC (“Key Energy”) is a Texas  
2 limited liability company, and does business in the County of Monterey, California. Key Energy  
3 currently operates well servicing for Chevron at the San Ardo Oil Field, which is affected by  
4 Measure Z. As such, Key Energy has a beneficial interest in the issuance of the writ of mandamus  
5 and complaint sought herein.

6           7.       Petitioner and Plaintiff Ensign United States Drilling (California), Inc. (“Ensign”) is  
7 a California corporation, and does business in the County of Monterey, California. Ensign  
8 currently operates drilling services for Chevron at the San Ardo Oil Field, which is affected by  
9 Measure Z. As such, Ensign has a beneficial interest in the issuance of the writ of mandamus and  
10 complaint sought herein.

11          8.       Petitioner and Plaintiff Maureen Wruck is a California resident who is a partner in a  
12 limited liability company that does business in the County of Monterey, California. Maureen  
13 Wruck’s income is dependent on her business as a consultant and project manager for Chevron’s  
14 projects at the San Ardo Oil Field, which is affected by Measure Z. As such, Maureen Wruck has a  
15 beneficial interest in the issuance of the writ of mandamus and complaint sought herein.

16          9.       Petitioner and Plaintiff Peter Orradre, as Trustee to the 2002 Peter Orradre  
17 Revocable Trust and the 1994 Foletta Children’s Trust (“Peter Orradre”), is a California citizen and  
18 resident. As trustee, Peter Orradre owns the mineral rights to a parcel of land in the San Ardo Oil  
19 Field. Peter Orradre’s mineral rights at the San Ardo Oil Field have been leased to Chevron, which  
20 is affected by Measure Z. Peter Orradre thus has a beneficial interest in the issuance of the writ of  
21 mandamus and complaint sought herein.

22          10.      Petitioner and Plaintiff Martin Orradre, as Trustee to the 2008 Martin Orradre  
23 Revocable Trust (“Martin Orradre”), is a California citizen and resident. As trustee, Martin Orradre  
24 owns the mineral rights to a parcel of land in the San Ardo Oil Field. Martin Orradre’s mineral  
25 rights at the San Ardo Oil Field have been leased to Chevron, which is affected by Measure Z.  
26 Martin Orradre thus has a beneficial interest in the issuance of the writ of mandamus and complaint  
27 sought herein.

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1           11.     Petitioner and Plaintiff James Orradre, as Trustee to the 2004 James Orradre  
2     Revocable Trust (“James Orradre”), is a California citizen and resident. As trustee, James Orradre  
3     owns the mineral rights to a parcel of land in the San Ardo Oil Field. James Orradre’s mineral  
4     rights at the San Ardo Oil Field have been leased to Chevron, which is affected by Measure Z.  
5     James Orradre thus has a beneficial interest in the issuance of the writ of mandamus and complaint  
6     sought herein.

7           12.     Petitioner and Plaintiff Stephen Maurice Boyum, as Trustee to the Boyum Family  
8     Trust (“Stephen Boyum”), is a California citizen and resident. As trustee, Stephen Boyum owns the  
9     mineral rights to a parcel of land in the San Ardo Oil Field. Stephen Boyum’s mineral rights at the  
10    San Ardo Oil Field have been leased to Chevron, which is affected by Measure Z. Stephen Boyum  
11    thus has a beneficial interest in the issuance of the writ of mandamus and complaint sought herein

12          13.     Petitioner and Plaintiff San Ardo Union Elementary School District (the “School  
13    District”) is a public elementary school district in Monterey County, California. The School  
14    District currently receives significant revenue from the property tax dollars connected to the oil  
15    fields in the School District, including the San Ardo Oil Field, which is affected by Measure Z.  
16    The School District has also received many contributions from Chevron in the form of financial  
17    assistance and volunteer time from Chevron employees. Further, without the tax base provided by  
18    the oil companies operating at the San Ardo Oil Field, the School District will not be able to issue  
19    the bonds approved by the electorate within the San Ardo School District on November 8, 2016.  
20    As such, the School District has a beneficial interest in the issuance of the writ of mandamus and  
21    complaint sought herein.

22          14.     Plaintiffs are informed and believe and thereon allege that Defendant and  
23    Respondent County of Monterey is a general law county formed pursuant to Article XI, section 1 of  
24    the Constitution of the State of California and organized pursuant to California Government Code  
25    sections 23000, et seq. The San Ardo Oil Field lies within the boundaries of unincorporated  
26    Monterey County.

27          15.     Plaintiffs are unaware of the true names and/or capacities of Respondents and  
28    Defendants DOES 1 through 25, inclusive, and therefore sue said Respondents and Defendants by

1 such fictitious names. Plaintiffs will amend this pleading to insert the true names and/or capacities  
2 of DOES 1 through 25, inclusive, when the same have been ascertained. Plaintiffs are informed  
3 and believe and thereon allege that each such fictitiously named Respondent and Defendant is, in  
4 some manner or for some reason, responsible for the damage caused to Plaintiffs and is subject to  
5 the relief being sought in this pleading.

### 6 III.

#### 7 JURISDICTION AND VENUE

8 16. This Court has jurisdiction pursuant to Article I, section 19 of the California  
9 Constitution, and California Code of Civil Procedure sections 1060, 1085 and 1094.5.

10 17. Plaintiffs have brought a facial challenge to the enactment of Measure Z, and are  
11 excused from exhausting any administrative remedy before the County.

12 18. No claim is required to be filed to maintain an inverse condemnation claim against a  
13 public entity pursuant to California Government Code section 905.1.

14 19. Venue is proper in this Court because the San Ardo Oil Field is located in Monterey  
15 County, Defendant Monterey County is a public entity located in Monterey County, and the  
16 violations of Plaintiffs' rights occurred in Monterey County.

### 17 IV.

#### 18 FACTUAL AND LEGAL STATEMENT

##### 19 **A. The San Ardo Oil Field Has an Extensive History of Drilling Operations**

20 20. The San Ardo Oil Field is a parcel of land that is located in the southern portion of  
21 unincorporated Monterey County.

22 21. The San Ardo Oil Field was discovered in 1947 and, based on cumulative  
23 production, is the eighth-largest oil field in California, according to the 2015 Annual Report by the  
24 California Department of Conservation, Division of Oil, Gas, and Geothermal Resources  
25 (“DOGGR”). Chevron is the largest operator at the San Ardo Oil Field, currently producing about  
26 11,000 barrels of oil per day.

27 22. In 1949, Monterey County issued a Use Permit to The Texas Company, which  
28 became Texaco, broadly authorizing the holder to “drill for and/or remove oil, gas, or other

1 hydrocarbon substances.” Chevron acquired its interest in the San Ardo Oil Field, and succeeded in  
2 interest to all of the rights, duties, and obligations of the 1949 Use Permit, when it merged with  
3 Texaco in 2001.

4 23. The San Ardo Oil Field has two productive zones: the Aurignac and Lombardi  
5 Sands, respectively. Crude oil produced at San Ardo is “heavy,” which means the underground  
6 pressure causes the oil to be highly viscous such that it cannot easily flow to production wells under  
7 normal reservoir conditions. Normally, crude oil in San Ardo has the consistency of ketchup, but  
8 the injection of steam makes the oil flow more easily through the sub-surface to the well. Steam  
9 injection enhances recovery principally by heating sub-surface oil, which reduces oil viscosity and  
10 allows it to flow more easily to the well. As steam is injected underground, it creates a “steam  
11 chest,” which functions like an expanding bubble that allows the steam to increase its contact with  
12 the heavy oil below. Steam flooding has been used at the San Ardo Oil Field since the 1960s.

13 24. In 2006, Chevron began a major capital improvement project at the San Ardo Oil  
14 Field seeking to boost production at the San Ardo Oil Field. At that time, oil production was  
15 declining due to limited capacity for disposing of the produced water generated from the field.  
16 “Produced water” is an industry term to describe water that is extracted from the earth along with  
17 the oil. An oil well at the San Ardo field typically extracts 10 to 20 times more produced water  
18 than oil. In order to boost production, Chevron had to remove the excess water from the Lombardi  
19 Sands formation. Dewatering reduces the formation pressure, thereby allowing the injected steam  
20 to contact the remaining heavy oil for production and to expand the area of steam-enhanced  
21 production.

22 25. In 2006, Chevron obtained an administrative permit from the County for  
23 construction of a reverse osmosis (“RO”) facility and a waste discharge requirement order from the  
24 Regional Water Quality Control Board, Central Coast Region, which allows Chevron to treat up to  
25 45,000 barrels per day of produced water, which is approximately one-quarter of the volume of  
26 produced water from the field. Approximately 75% of the water entering the RO facility is purified  
27 through the RO process, then released to a set of constructed wetlands, and finally sent to recharge  
28 basins that allow the purified water to percolate into the Salinas River groundwater system. The



1 remaining 25% of water processed at the RO facility is concentrated brine that is injected into the  
2 Aurignac formation, which is below the Lombardi formation that is the current focus of oil  
3 production. Based in part on these improvements, Chevron has increased total production from  
4 roughly 1.1 million barrels of oil equivalent (“BOE”) per year in 2006 to over 4 million BOE per  
5 year as of 2015. As a result of its operations at the RO facility, Chevron also provides roughly  
6 1,600 acre-feet per year of purified water to the County for beneficial use.

7 **B. The County’s Adoption of Measure Z**

8 26. Measure Z is a ballot initiative that was submitted to the Monterey County Registrar  
9 of Voters in February 2016.

10 27. After certification of the signatures supporting the initiative, the Registrar submitted  
11 Measure Z to the County Board of Supervisors in June 2016. In June 2016, the Board voted to  
12 place the initiative on the November 8, 2016 ballot as Measure Z.

13 28. On November 8, 2016, Measure Z passed with roughly 56% of the vote. The  
14 Monterey County registrar of voters certified the vote on December 2, 2016. Plaintiffs are  
15 informed and believe that, pursuant to section 9122 of the California Elections Code, the vote was  
16 declared final and Measure Z adopted by the County Board of Supervisors on December 13, 2016.  
17 Measure Z is set to take effect ten days following this certification, on December 23, 2016.

18 29. Measure Z includes a provision that permits a party to seek an exemption from the  
19 Measure on the grounds that it constitutes an unconstitutional taking. Chevron intends to submit an  
20 application for a full exemption from the Board of Supervisors and will amend the Petition and  
21 Complaint to include additional claims regarding the validity and constitutionality of the law as it is  
22 applied to Chevron in the event that the Board of Supervisors issues an adverse determination.

23 30. Although Proponents of Measure Z advertise the measure as a ban on hydraulic  
24 fracturing (*i.e.*, “fracking,” which is a well stimulation treatment to enhance oil recovery that is not  
25 used by Chevron in Monterey County), the Measure’s impacts are much broader than a ban on  
26 hydraulic fracturing. Measure Z amends the Monterey County General Plan, local coastal Land  
27 Use Plans, and the Fort Ord Master Plan to prohibit (1) land uses in support of well stimulation  
28

1 treatments; (2) land uses in support of oil and gas wastewater injection and impoundment; and (3)  
2 the drilling of new oil and gas wells.

3 **1. Prohibition on Land Uses in Support of Well Stimulation Treatments**

4 31. Measure Z prohibits “[t]he development, construction, installation, or use of any  
5 facility, appurtenance, or above-ground equipment, whether temporary or permanent, mobile or  
6 fixed, accessory or principal, in support of well stimulation treatments.” “Well stimulation  
7 treatments” are defined as “any treatment of a well designed to enhance oil and gas production or  
8 recovery by increasing the permeability of the formation.” “Well stimulation treatments” include  
9 hydraulic fracturing treatments and acid well stimulation treatments but specifically exclude steam  
10 flooding, water flooding, cyclic steaming, and routine well maintenance activities.

11 **2. Prohibition on Land Uses in Support of Wastewater Injection and Impoundment**

12 32. Measure Z prohibits “[t]he development, construction, installation, or use of any  
13 facility, appurtenance, or above-ground equipment, whether temporary or permanent, mobile or  
14 fixed, accessory or principal, in support of oil and gas wastewater injection or oil and gas  
15 wastewater impoundment.” This prohibition is subject to a five-year phase-out period. Non-  
16 conforming uses are to be discontinued within five years of the date on which Measure Z becomes  
17 effective pursuant to state law. However, otherwise prohibited operations may be extended on a  
18 case-by-case basis if the Planning Commission determines that (a) the applicant had a vested right  
19 to operate using wastewater injection/impoundment when Measure Z became effective and (b) five  
20 years is not a reasonable amortization period based on a showing of substantial evidence. Any  
21 extension cannot exceed 10 years and the total phase-out period cannot exceed 15 years. An  
22 extension will only be granted “for the minimum length of time necessary to provide a reasonable  
23 amortization period pursuant to state law.”

24 **3. Prohibition on Drilling New Oil and Gas Wells**

25 33. Measure Z generally prohibits “[t]he drilling of new oil and gas wells.” “Oil and gas  
26 wells” are defined as “wells drilled for the purpose of exploring for, recovering, or aiding in the  
27 recovery of, oil and gas.” Given the typical, exponential decline in production wells, it is estimated  
28 that the prohibition on new wells, by itself, will result in a base decline in production by at least

1 20% per year throughout the remaining life of the San Ardo field. This will cause Chevron’s  
2 production to decrease by roughly 800,000 barrels of oil in the first year alone. Because Chevron is  
3 no longer permitted to drill new wells, the steam chest also risks rapid decline and eventual  
4 collapse, which will decimate production. Once the steam chest collapses, Chevron will not have  
5 any cost-effective way to reconstruct the steam chest.

6 **C. The County is Preempted from Interfering with the Drilling and Operations of Oil Wells**

7 34. Measure Z expressly and impliedly contradicts and enters an area fully occupied by  
8 comprehensive state and federal laws regulating oil drilling operations, underground injection,  
9 produced water impoundment, and well stimulation. Measure Z is thereby preempted and void.

10 35. The Legislature has expressly delegated to DOGGR the authority to “supervise the  
11 drilling, operation, maintenance, and abandonment of wells.” (Pub. Resources Code, § 3106,  
12 subd. (a).) In exercising this power, the Legislature has directed that DOGGR must “permit the  
13 owners or operators of the wells to utilize all methods and practices known to the oil industry for  
14 the purpose of increasing the ultimate recovery of underground hydrocarbons and which, in the  
15 opinion of the supervisor, are suitable for this purpose in each proposed case.” (*Id.*, subd. (b).) The  
16 Legislature also stated that to “further the elimination of waste by increasing the recovery of  
17 underground hydrocarbons, it is hereby declared as a policy of the state that the grant in an oil and  
18 gas lease . . . to explore for and remove all hydrocarbons from any lands in the state . . . is deemed  
19 to allow the lessee . . . [to] inject[] air, gas, water or other fluids in productive strata [and to] appl[y]  
20 pressure heat or other means for the reduction of viscosity of the hydrocarbons.” (*Ibid.*) The  
21 Legislature has underlined its intent by obligating DOGGR “to encourage the wise development of  
22 oil and gas resources.” (*Id.*, subd. (d).)

23 36. Through contracts with the owners of certain mineral rights within the San Ardo oil  
24 field, its fee ownership of certain land within the San Ardo Oil Field, and the 1949 Use Permit,  
25 Chevron has been granted the right to explore for and remove all hydrocarbons within its leased and  
26 owned areas of the San Ardo Oil Field.

1           37.     Measure Z seeks to regulate oil production operations by circumscribing whether  
2 and how Chevron may conduct those operations through the entire County, including the San Ardo  
3 Oil Field.

4           38.     DOGGR has been exclusively empowered to regulate operations of oil fields,  
5 including approval and operation of new wells in existing fields. DOGGR has established a  
6 comprehensive system of regulations governing the operation of new wells. Measure Z directly  
7 contradicts this detailed system of permitting and approvals. Measure Z’s prohibition on drilling  
8 any new wells in existing oil fields prevents Chevron from drilling new wells needed to combat  
9 natural declines in production and to facilitate the use of steam injection—both activities within the  
10 scope of DOGGR’s regulatory authority. (Pub. Resources Code, § 3106, subd. (b).)

11           39.     Measure Z’s prohibition on “land uses” that support hydraulic fracturing activities  
12 and wastewater injection and impoundment, rather than the activities themselves, is pretextual.  
13 There is no legitimate distinction between the “land uses” prohibited by Measure Z and “land uses”  
14 that support activities that would continue to be authorized by the County. Thus, the prohibition on  
15 “land uses” is a prohibition on the underlying activities themselves, the regulation of which is  
16 preempted by federal and state law.

17           40.     DOGGR has been exclusively empowered to regulate underground injection  
18 pursuant to a delegation of primacy by the U.S. Environmental Protection Agency under the federal  
19 Safe Drinking Water Act. (See 40 C.F.R. § 147.250.) DOGGR has extensive regulations under its  
20 Underground Injection Control program, including the requirement that prior to any subsurface  
21 injection or disposal, an operator must obtain approval from DOGGR. (Cal. Code Regs., tit. 14,  
22 § 1724.6.)

23           41.     By prohibiting the underground injection of steam to enhance oil recovery and  
24 produced water for disposal (despite the approved injection permits from DOGGR), Measure Z is  
25 preempted by federal and state law, which delegated exclusive enforcement authority to DOGGR  
26 throughout California.

27           42.     The provisions of Measure Z that phase out produced water impoundment also  
28 intrude on an area of law exclusively within the purview of the State Water Resources Control

1 Board (“State Board”) and its authorized regional boards. (Cal. Water Code, §§ 13260, 13300 &  
2 13301.) As shown by State Board Resolution No. 92-49, the regulation of waste discharges was  
3 delegated to state authorities “to achieve a unified and effective water quality control program in  
4 the state.” More specifically, produced water impoundments are permitted only when the regional  
5 board determines the discharge will not adversely affect the surrounding waters. To that end, the  
6 Legislature adopted Senate Bill 83 in 2015, which requires the state board to prepare a status report  
7 every six months on the regulation of oil field produced water impoundments. By attempting to  
8 prohibit water impoundments specifically permitted by state authorities, Measure Z directly  
9 contradicts and undermines comprehensive state regulations on produced water impoundment.

10 43. Measure Z is also preempted by Senate Bill 4 (Chapter 313, Statutes of 2013) (“SB  
11 4”). SB 4 explicitly directed DOGGR to promulgate extensive regulations governing well  
12 stimulation treatments in California. These regulations went into effect on July 1, 2015.

13 **D. Chevron Has a Vested Right to Continue Drilling in the San Ardo Oil Field**

14 44. Chevron or its predecessors have operated a lawful oil drilling business continuously  
15 at the San Ardo Oil Field since 1949.

16 45. The San Ardo Oil Field is zoned for “Heavy Industry” and Monterey County allows  
17 for the removal of oil and gas within this zoning classification subject to a use permit. (Monterey  
18 County Code § 21.28.060, subd. (FF).) Chevron currently operates pursuant to a blanket use permit  
19 issued for the San Ardo Oil Field in 1949, which allows the holder to “drill for and/or remove oil,  
20 gas, or other hydrocarbon substances” in an area covered by maps attached thereto.

21 46. Chevron has vested rights under the 1949 use permit to drill for and remove oil from  
22 its property. Such a vested right prevents Monterey County from prohibiting activities authorized  
23 by the permit on the basis of later changes to its land use laws.

24 47. Measure Z would have the effect not only of shutting down a business that has  
25 mutually benefited the County for nearly seven decades, but also of terminating the right to produce  
26 oil—an extraordinarily valuable resource that reduces the need for California to rely on foreign oil  
27 resources.

28

1           48. To the extent that Chevron’s 1949 use permit could be deemed inconsistent and  
2 subordinate to the amendments to Monterey County’s General Plan added by Measure Z (which it  
3 should not), Chevron’s operations must be deemed a legal nonconforming use. “Any use of land,  
4 structure or land and structure which was legally established but is nonconforming to subsequently  
5 adopted land use regulations is a legal nonconforming use.” (Monterey County Code § 21.68.010.)

6           49. Chevron has clearly exhibited an intent to continue to drill new wells and utilize  
7 steam flooding within all of its leased areas within the San Ardo Oil Field. The continued  
8 development of these areas is a progression of the extractive activity into all areas of the property.  
9 The County is thereby prevented from prohibiting activities by Chevron to extract all oil from its  
10 property within the San Ardo Oil Field authorized by the 1949 use permit on the basis of later  
11 changes in its land use laws.

12 **E. Measure Z Constitutes a Taking of Private Property Without Prior Compensation**

13           50. The County must pay just compensation for the implementation of Measure Z  
14 because it is a regulatory taking under the United States and California Constitutions. The federal  
15 and state Constitutions prohibit the government from taking private property “without just  
16 compensation.” (U.S. Const., 5th & 14th Amendments; Cal. Const. art. I, § 19.)

17           51. The County must pay just compensation for a taking that is the result of a ballot  
18 measure adopted by voters.

19           52. The mere enactment of Measure Z constitutes a taking because, by itself, it has the  
20 effect of substantially impairing the property rights of Chevron and the Royalty Owners and  
21 substantially eliminating the value of the San Ardo Oil Field, if Measure Z is allowed to remain in  
22 effect.

23           53. The County may not deprive Chevron and the Royalty Owners of the beneficial or  
24 productive use of the San Ardo Oil Field without just compensation. In enacting the Measure, the  
25 County violated Article 1, section 19 of the California Constitution and the Fifth Amendment of the  
26 U.S. Constitution, as incorporated to the States by the Fourteenth Amendment, which prohibits the  
27 taking or damaging of private property for public use without prior, just compensation.  
28

1           54. Measure Z will prevent the continued operation of the oil and gas wells at the San  
2 Ardo Oil Field after a period of five years. Truncating the life span of the oil field dramatically  
3 reduces its economic value. Measure Z also immediately prohibits drilling new wells. If the  
4 County prevents the drilling of additional wells, the yield from the current wells will continually  
5 decrease until oil and gas production at the San Ardo Oil Field will no longer be economically  
6 viable. As such, the County's actions will have the direct result of substantially diminishing  
7 Chevron's and the Royalty Owners' reasonable investment-backed expectations in the San Ardo  
8 Oil Field.

9           55. To date, Chevron and the Royalty Owners have not received any compensation from  
10 the County on account of the above taking of, or damage to, the property rights within the San Ardo  
11 Oil Field as a result of Measure Z. The County failed to ascertain the just compensation due to  
12 Chevron and the Royalty Owners prior to implementation of Measure Z.

13           **1. Measure Z Eliminates All Economically Beneficial or Productive Use of the San**  
14           **Ardo Oil Field**

15           56. Measure Z eliminates all economically beneficial or productive use of San Ardo by  
16 Chevron and the Royalty Owners. Because Measure Z prohibits (1) land uses in support of  
17 wastewater injection and impoundment; and (2) drilling new wells, the Measure substantially  
18 eliminates any opportunity to conduct oil and gas operations within the San Ardo Oil Field. The  
19 effect of this Measure is to deny Chevron and the Royalty Owners all economically viable use of  
20 the property.

21           57. Measure Z's prohibition on wastewater injection and impoundment will result in the  
22 cessation of all oil and gas operations currently in place, as Chevron's operations rely entirely on  
23 these operations. Chevron currently uses steamflood operations, which are prohibited under  
24 Measure Z's prohibition of the injection of produced water. Chevron also uses the above-ground  
25 release of purified water and the underground injection of concentrated brine from its reverse-  
26 osmosis facility, which are similarly prohibited under Measure Z. The Measure provides that these  
27 uses are subject to a "phase-out" period, which is between five and fifteen years. Even with the  
28 phase-out period, the impending prohibition will prevent any investment of capital and resources

1 into the San Ardo Oil Field. Even assuming that injection and impoundment activities can continue  
2 for fifteen years from the effective date of Measure Z, this truncated lifespan of the field is  
3 inadequate to justify the level of capital investment necessary to maintain an oil field of this size.  
4 Further, the ban on new wells truncates the lifespan of the field. Under Measure Z, Chevron may  
5 only operate its existing wells during the phase-out period. Chevron's operations depend on its  
6 current operation of drilling new wells each year. Without the addition of new wells, Chevron will  
7 not be able to operate the San Ardo Oil Field at its previous capacity.

8 58. The San Ardo Oil Field has been used exclusively as an oil field since the first  
9 permit was issued in 1949. The Royalty Owners, who generally own only mineral rights within the  
10 San Ardo field, will be irreparably harmed because their only rights to the property are for the  
11 extraction of minerals beneath the surface. Measure Z extinguishes the Royalty Owners' rights to  
12 this property.

13 59. Chevron's operations at the San Ardo Oil Field exist for the purpose of extracting  
14 oil. Almost all of Chevron's property interest at the San Ardo Oil Field is a leasehold interest to  
15 extract oil. Thus, Measure Z effectively eliminates Chevron's property interest.

16 **2. Measure Z Interferes with Chevron's and the Royalty Owners' Distinct**  
17 **Investment-Backed Expectations**

18 60. Measure Z will result in the prohibition of all current oil and gas operations at the  
19 San Ardo Oil Field because of Measure Z's prohibition on all wastewater injection and  
20 impoundment. This will result in a complete loss of the current economic uses of the San Ardo Oil  
21 Field.

22 61. Measure Z's provision regarding the "phase-out" period for wastewater injection and  
23 impoundment is an unreasonable amortization period. Measure Z states that all non-conforming  
24 uses must be phased out within five to fifteen years. This amount of time is unreasonable, as it  
25 interferes with Chevron's investment-backed expectations that the oil field would remain in  
26 operation until Chevron extracted all oil from its property pursuant to the 1949 use permit.

27 62. Measure Z will result in the unwarranted denial of drilling permit applications,  
28 which will prevent Chevron from being able to continue drilling wells. Additional wells are



1 essential for Chevron to maintain a viable level of extraction of oil and gas from the San Ardo Oil  
2 Field.

3 63. Additional wells are needed to access remaining oil reserves within the San Ardo Oil  
4 Field. Without the ability to drill such wells, oil reserves will be lost forever, along with any profit  
5 that Chevron could make from its investment in said wells and the royalties that would otherwise be  
6 paid to the Royalty Owners' for their mineral interests.

7 64. The continued operations and additional drilling at the San Ardo Oil Field is not  
8 inherently dangerous, and does not cause harm or a nuisance to local communities.

9 65. Ramifications to the entire community will be felt as a result of the interference with  
10 Chevron's operations at the San Ardo Oil Field. For instance, the School District will likely be  
11 required to close as a result of its inability to issue the necessary bonds to repair its infrastructure.  
12 Local community services will also lose substantial amounts of tax revenue generated as a result of  
13 oil operations at the San Ardo Oil Field. The San Ardo Oil Field also provides a substantial  
14 numbers of jobs in the County and supports many local businesses. Measure Z would devastate the  
15 income stream to the local government entities and would remove a core part of the economy in  
16 Monterey County.

17 66. The economic value of the San Ardo Oil Field has diminished substantially as a  
18 result of the prohibitions and the regulations imposed by Measure Z. The diminution in value  
19 caused by the Measure has essentially appropriated the property for public use.

20 67. Measure Z has interfered with Chevron and the Royalty Owners' reasonable and  
21 distinct investment-backed expectations. Chevron has a vested right in continued drilling activities  
22 at the San Ardo Oil Field. Further, Measure Z has interfered with the Royalty Owners' investment-  
23 backed expectations, and they are unable to allow the land to be used in its best and most  
24 productive use. The Royalty Owners own mineral interests in the property, which have been  
25 substantially impaired in value as a result of Measure Z. Chevron's only purpose in its presence at  
26 the San Ardo Oil Field is the extraction of oil, which has been eliminated as a result of Measure Z.

27 68. Measure Z has the effect of destroying Chevron's ability to continue the existing and  
28 traditional use of the San Ardo Oil Field, which has been the drilling and extraction of oil and gas.

1 Therefore, the Measure has interfered with the “primary expectations” of Chevron and the Royalty  
2 Owners.

3 **3. Measure Z Prevents Chevron and the Royalty Owners from Obtaining a**  
4 **Reasonable Return on Their Investments in the Property**

5 69. Measure Z does not allow Chevron or the Royalty Owners to profit from or obtain a  
6 reasonable return on their investments in the San Ardo Oil Field.

7 70. Measure Z provides no benefits or rights to Chevron or the Royalty Owners that  
8 could mitigate the financial burdens that it imposes. The enactment of Measure Z makes it  
9 impossible for Chevron to profitably engage in its business, or for Royalty Owners to obtain value  
10 from its mineral interests.

11 71. Measure Z’s provisions regarding the “phase-out” period for wastewater injection  
12 and impoundment provide an unreasonable amortization period. Measure Z states that all non-  
13 conforming uses must be phased out within five to fifteen years. This amount of time is  
14 unreasonable, as Chevron and the Royalty Owners cannot obtain a reasonable return on its  
15 investments in the property within this amount of time.

16 72. Measure Z prevents the Chevron and the Royalty Owners from putting the San Ardo  
17 Oil Field to its highest and best use. The continued extraction of oil from the San Ardo Oil Field  
18 serves a high societal need in that it reduces national dependence on foreign oil; increases the  
19 supply of oil and gas in the Southern California region; avoids the increased cost and pollution  
20 resulting from the overseas import of oil and gas for domestic consumption; and provides economic  
21 benefits to industries and employees in the region who are involved in the extraction,  
22 transportation, refining, and processing of the oil and gas extracted from the San Ardo Oil Field.

23 73. Measure Z has the effect of extinguishing a fundamental attribute of the property  
24 rights of Chevron and the Royalty Owners in the San Ardo Oil Field. The right to drill additional  
25 wells and to conduct injection, impoundment and stimulation activities, as necessary, is a critical  
26 and fundamental attribute of ownership in these lands, in particular to the mineral rights owned by  
27 the Royalty Owners and leased by Chevron.

28

1 **F. Plaintiffs Have Been Deprived of Due Process**

2 74. Measure Z constitutes a violation of the substantive due process rights of Chevron  
3 and the Royalty Owners.

4 75. Under the California Constitution, a person may not be deprived of life, liberty, or  
5 property without due process of law. (Cal. Const., art. I, § 7, subd. (a).) Similarly, the federal  
6 Constitution provides that “no State shall ... deprive any person of life, liberty, or property, without  
7 due process of law.” (U.S. Const., amend. XIV, § 1.) The federal provision guarantees certain  
8 substantive rights in addition to due process.

9 76. Measure Z is arbitrary and unreasonable and has no substantial relation to the public  
10 health, safety, morals, or general welfare.

11 77. Measure Z infringes the property rights of Chevron and the Royalty Owners in an  
12 arbitrary and irrational manner by effectively prohibiting all oil and gas operations within Monterey  
13 County, despite successful operations at the San Ardo Oil Field for nearly 70 years.

14 78. There is no legitimate interest in eliminating oil and gas operations. Measure Z  
15 contains no statement of why such operations will no longer be permitted in Monterey County.  
16 There is no legitimate interest in entirely eliminating an industry that is already regulated and  
17 permitted by various government entities.

18 79. The stated purpose of Measure Z is to “protect Monterey County’s water,  
19 agricultural lands, air quality, scenic vistas, and quality of life”, but Measure Z makes no showing  
20 of how any oil extraction operations have compromised or damaged the County’s “water,  
21 agricultural lands, air quality, scenic vistas, and quality of life.”

22 80. The California Constitution requires that the water resources of the State be put to  
23 beneficial use to the fullest extent of which they are capable and that waste or unreasonable use of  
24 water must be prevented. (Cal. Const., art. X, § 2.) Measure Z prevents the use of water resources  
25 to the fullest extent and creates a waste of water.

26 81. Measure Z is also unconstitutionally vague. Measure Z fails to give a person of  
27 ordinary intelligence fair notice that his contemplated conduct is prohibited under the law. Measure  
28

1 Z will result in arbitrary and discriminatory enforcement because it lacks explicit standards to those  
2 who apply them.

3 82. For example, Measure Z does not define what wells would be considered “new”,  
4 thereby justifying arbitrary and discriminatory enforcement as to whether the prohibition on new  
5 wells includes the expansion of wells already in place. Measure Z likewise does not define what  
6 wells would be considered “abandoned”, thereby justifying arbitrary and discriminatory  
7 enforcement as to whether the prohibition includes wells that have been idled.

8 83. As another example, Measure Z’s definitions of “oil and gas wastewater injection”,  
9 “oil and gas wastewater impoundment”, and “oil and gas wastewater” are vague because they do  
10 not reasonably identify which operations are prohibited within the County.

11 **V.**

12 **FIRST CAUSE OF ACTION**

13 **(By All Plaintiffs for Petition for Writ of Traditional Mandamus Under Code of**  
14 **Civil Procedure Section 1085 or Alternatively under Section 1094.5)**

15 84. Plaintiffs reallege and incorporate herein by reference Paragraphs 1 through 83  
16 above.

17 85. Plaintiffs seek a writ of traditional mandamus pursuant to Code of Civil Procedure  
18 Section 1085, or alternatively Section 1094.5. The adoption of Measure Z is preempted because the  
19 County is preempted from intruding upon the state’s exclusive jurisdiction over certain parts of oil  
20 and gas regulations.

21 86. The State of California, through DOGGR, has exclusive jurisdiction over the  
22 drilling, operation, maintenance, and abandonment of wells. Measure Z seeks to regulate oil  
23 production operations by circumscribing how Chevron may conduct those operations through the  
24 entire County, including the San Ardo Oil Field.

25 87. Measure Z’s ban on the drilling of new oil wells is preempted by federal and state  
26 law, providing that DOGGR has exclusive jurisdiction to regulate the drilling and operation of new  
27 wells. The provisions of Measure Z prohibit construction and operation of all new wells in the  
28 County, in direct contravention of state law.

1           88.     The provisions of Measure Z that phase out produced water impoundment and  
2 disposal intrude on areas of law exclusively within the purview of the State Water Resources  
3 Control Board and its authorized regional boards.

4           89.     Measure Z is preempted by federal and state law, providing that DOGGR has  
5 exclusive jurisdiction to regulate underground injection and produced water impoundment pursuant  
6 to delegation of primacy by the U.S. Environmental Protection Agency under the federal Safe  
7 Drinking Water Act.

8           90.     Measure Z is preempted by Senate Bill 4. SB 4 explicitly directed DOGGR to  
9 promulgate extensive regulations governing well stimulation treatments in California.

10          91.     The enactment of Measure Z was also arbitrary and discriminatory, and not  
11 reasonably related to any legitimate governmental purpose. The purpose of Measure Z is to  
12 prohibit all oil and gas operations in Monterey County, despite its successful operation there for  
13 nearly 70 years. For these reasons, the enactment of Measure Z violated Plaintiffs' due process  
14 rights under Article 1, section 7 of the California Constitution as well as the Due Process Clause of  
15 the Fourteenth Amendment to the United States Constitution.

16          92.     Measure Z is void for vagueness under the United States and California  
17 Constitutions because it fails to afford a person of ordinary intelligence warning of what conduct is  
18 prohibited or to afford a specific enough standard for its enforcement.

19          93.     By enacting Measure Z, the County has acted unlawfully and beyond the scope of its  
20 statutory and regulatory authority as set forth in California and federal law.

21          94.     The County has acted arbitrarily and capriciously and has abused its discretion.

22          95.     Plaintiffs have a beneficial interest in ensuring that the County does not enforce the  
23 prohibitions of Measure Z that exceed its authority and are preempted by state and federal statutes.

24          96.     Plaintiffs are irreparably harmed by the County's enactment of a ballot measure that  
25 exceeds its statutory authority, and is preempted by state and federal law.

26          97.     Plaintiffs have no plain, speedy and adequate remedy at law to challenge Measure Z  
27 other than the relief sought herein. The language of Measure Z itself contains no alternative  
28 remedy available for Plaintiffs to bring all of the challenges alleged herein, nor has the County

1 made available any other remedy at law that will adequately determine the merits of Plaintiffs'  
2 challenges to Measure Z. Without the resolution of these challenges, Plaintiffs will be  
3 permanently, irreparably harmed by the implementation of Measure Z.

4 98. Because the enactment of Measure Z is quasi-legislative in nature and not  
5 adjudicatory, Plaintiffs bring this action under Code of Civil Procedure section 1085. In the  
6 alternative, however, Plaintiffs also seek a writ of mandamus under Code of Civil Procedure section  
7 1094.5 to the extent, if any, that the Court concludes section 1094.5 is applicable here.

8 **VI.**

9 **SECOND CAUSE OF ACTION**

10 **(By Chevron for Complaint for Declaratory Relief for the Impairment of**  
11 **Chevron's Vested Rights)**

12 99. Plaintiffs reallege and incorporate herein by reference Paragraphs 1 through 83  
13 above.

14 100. Chevron seeks a declaration from this Court that Chevron has a vested right in the  
15 continuation of the oil production operations at the San Ardo Oil Field, which is an extractive  
16 business. Chevron further seeks a declaration that, as a result of this vested right, Monterey County  
17 may not prohibit the activities authorized by the 1949 Use Permit through Measure Z.

18 101. There is a present and actual controversy between Chevron and the County as to  
19 whether the prohibitions in Measure Z apply to Chevron's ongoing operations at the San Ardo Oil  
20 Field.

21 102. Chevron seeks a judicial determination of the rights and obligations of the respective  
22 parties concerning the allegations in this Complaint. f

23 103. Such a declaration is necessary and appropriate at this time in order that Chevron  
24 may ascertain the effect of Measure Z.

25 104. The County's enactment of Measure Z irreparably harms and will continue to  
26 irreparably harm Chevron based on the substantial economic harm and operational harm that will  
27 flow from application of Measure Z.

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VII.

THIRD CAUSE OF ACTION

**(By Chevron and the Royalty Owners for Complaint for Declaratory Relief Based Upon  
Violation of Article 1, § 19 of the California Constitution (Inverse Condemnation) and  
Violation of the Takings Clause of the Fifth and Fourteenth Amendments to the United States  
Constitution)**

105. Plaintiffs reallege and incorporate herein by reference Paragraphs 1 through 83 above.

106. Measure Z is invalid because it substantially impairs Chevron's and the Royalty Owners' property rights in the San Ardo Oil Field without prior compensation to Chevron and the Royalty Owners. The County therefore violated Article 1, section 19 of the California Constitution and the Takings Clause of the Fifth and Fourteenth Amendments to the United States Constitution by adopting the Measure.

107. The enactment of Measure Z eliminates substantially all economically viable use of the San Ardo Oil Field for the benefit of the public without prior compensation to Chevron and the Royalty Owners. The enactment of Measure Z also substantially impairs Chevron's and the Royalty Owners' property rights in the San Ardo Oil Field for the benefit of the public without prior compensation to Chevron and the Royalty Owners. In taking such action, the County violates Article 1, section 19 of the California Constitution, which prohibits the temporary or permanent taking or damaging of private property for public use without prior, just compensation. Further, the County violates the takings clause of the Fifth Amendment of the U.S. Constitution, as incorporated by the Fourteenth, which prohibits the temporary or permanent taking of private property for public use without prior, just compensation.

108. A judicial determination of the invalidity of Measure Z is necessary and appropriate to avoid the deprivation of state and federal constitutional rights that will result from applying the Measure to oil production operations by Chevron and the resulting damages to the Royalty Owners.

1 **VIII.**

2 **FOURTH CAUSE OF ACTION**

3 **(By Chevron and the Royalty Owners for Complaint for Damages for Taking or Damaging of**  
4 **Property for Public Use Without Prior Compensation in Violation of Article 1, § 19 of the**  
5 **California Constitution and Violation of the Takings Clause of the Fifth and Fourteenth**  
6 **Amendments to the United States Constitution (Inverse Condemnation))**

7 109. Plaintiffs reallege and incorporate herein by reference Paragraphs 1 through 83  
8 above.

9 110. At the time of the County's acts alleged herein, the Royalty Owners were the owners  
10 of surface rights and mineral rights in land within the San Ardo Oil Field. Chevron had leasehold  
11 interests in the extraction of oil and gas within the San Ardo Oil Field.

12 111. For many years prior to the County's acts alleged herein, Chevron had a vested right  
13 to continue drilling operations within the San Ardo Oil Field as a matter of right.

14 112. The enactment of Measure Z eliminates substantially all economically viable use of  
15 the San Ardo Oil Field for the benefit of the public without prior compensation to Chevron or the  
16 Royalty Owners. The enactment of Measure Z also substantially impairs the property rights of  
17 Chevron and the Royalty Owners in the San Ardo Oil Field for the benefit of the public without  
18 prior compensation to Chevron or the Royalty Owners. In taking such action, the County violates  
19 Article 1, section 19 of the California Constitution, which prohibits the taking or damaging of  
20 private property for public use without prior, just compensation. Further, the County violates the  
21 takings clause of the Fifth Amendment of the U.S. Constitution, as incorporated by the Fourteenth,  
22 which prohibits the taking of private property for public use without prior, just compensation

23 113. As a direct result of the County's actions as alleged herein, the enactment of  
24 Measure Z will interfere with the reasonable investment-backed expectations of Chevron and the  
25 Royalty Owners.

26 114. To date, Chevron and the Royalty Owners have not received any compensation from  
27 the County on account of the above alleged taking of, or damage to, their property rights within the  
28 San Ardo Oil Field.







1           10.    For Plaintiffs' costs of suit incurred herein; and

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

3 DATED: December 13, 2016

Respectfully submitted,

4 GIBSON, DUNN & CRUTCHER LLP

5  
6 By: \_\_\_\_\_

  
Jeffrey D. Dintzer

Attorneys for Petitioners and Plaintiffs  
CHEVRON U.S.A. INC.; KEY ENERGY SERVICES,  
7 LLC; ENSIGN UNITED STATES DRILLING  
8 (CALIFORNIA) INC.; MAUREEN WRUCK; PETER  
9 ORRADRE; MARTIN ORRADRE; JAMES  
10 ORRADRE; STEPHEN MAURICE BOYUM; and SAN  
11 ARDO UNION ELEMENTARY SCHOOL DISTRICT

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VERIFICATION

I, Kevin McNally, am Land Management Officer for Plaintiff and Petitioner CHEVRON U.S.A. INC. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDAMUS [CCP SECTION 1085 OR 1094.5] AND COMPLAINT FOR DAMAGES AND DECLARATORY RELIEF, and am familiar with its contents. The matters stated in it are true of my own knowledge, except as to those matters that are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that this Verification was executed by me on December 13, 2016, at Bakersfield, California, and that the foregoing is true and correct.

  
\_\_\_\_\_  
Kevin McNally

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