CENTER FOR BIOLOGICAL DIVERSITY RECEDEDGINAL FILED OCT 0 1 2012 OCT 1 5 2012 Adam Keats (SBN 191157) 351 California St., Suite 600 DEPT. SGOS ANGELES SUPERIOR COURT San Francisco, California 94104 Phone: 415-436-9682 Fax: 415-436-9683 Email: jbuse@biologicaldiversity.org akeats@biologicaldiversity.org 5 WISHTOYO FOUNDATION/VENTURA COASTKEEPER Jason A. Weiner (SBN 259264) 3875-A Telegraph Road, #423 Ventura, CA 93003 8 Phone: 805-823-3301 Fax: 805-258-5107 Email: jweiner.venturacoastkeeper@wishtoyo.org 9 Attorneys for Petitioners 10 11 SUPERIOR COURT OF THE STATE OF CALIFORNIA 12 IN AND FOR THE COUNTY OF LOS ANGELES 13 DYFAN CENTER FOR BIOLOGICAL DIVERSITY, ) Case No. BS 131347 14 FRIENDS OF THE SANTA CLARA RIVER,) SANTA CLARITA ORGANIZATION FOR ) PLANNING THE ENVIRONMENT, [PROPOSED] JUDGMENT WISHTOYO FOUNDATION/VENTURA COASTKEEPER, and CALIFORNIA Department: 86 17 NATIVE PLANT SOCIETY 18 Petitioners, 19 VS. 20 CALIFORNIA DEPARTMENT OF FISH 21 AND GAME and DOES 1-20, 22 Respondents, 23 24 NEWHALL LAND AND FARMING COMPANY and DOES 21-50, 25 Real Parties in Interest. 26 27 [Proposed] Judgment

This matter came on regularly for hearing on September 20, 2012 in Department 86 of this Court, located at 111 North Hill Street, Los Angeles, California, 90012. John Buse of the Center for Biological Diversity and Jason Weiner of Wishtoyo Foundation/Ventura Coastkeeper appeared on behalf of Petitioners CENTER FOR BIOLOGICAL DIVERSITY, FRIENDS OF THE SANTA CLARA RIVER, SANTA CLARITA ORGANIZATION FOR PLANNING THE ENVIRONMENT, WISHTOYO FOUNDATION/VENTURA COASTKEEPER, and CALIFORNIA NATIVE PLANT SOCIETY (the "Petitioners"). John Mattox of the California Department of Fish and Game and Tina Thomas of Thomas Law Group appeared on behalf of Respondent CALIFORNIA DEPARTMENT OF FISH AND GAME (the "Department"). Mark Dillon of Gatzke, Dillon and Balance appeared on behalf of Real Party in Interest NEWHALL LAND AND FARMING COMPANY ("Newhall").

The Court having reviewed the record of the proceedings in this matter, the briefs submitted by counsel, and the arguments of counsel; the Court having issued a Statement of Intended Decision dated September 20, 2012; the Court having taken judicial notice of those items described in the Statement of Intended Decision; the Court having directed that Petitioners shall submit a proposed Statement of Decision; and the Court having directed that judgment and a peremptory writ of mandate issue in this proceeding,

## IT IS ORDERED that:

- 1. Judgment be entered in favor of Petitioners in this proceeding on Petitioners'
  Petition for Writ of Mandate on the claims and for the reasons described in the Statement of
  Decision.
- 2. A peremptory writ of mandate directed to the Department issue under seal of this Court, ordering the Department to:
  - a. Set aside its approvals of the Newhall Ranch Resource Management and Development Plan, Spineflower Conservation Plan, Multi-Species Incidental Take

Pursuant to AB 2402, signed by the Governor on September 25, 2012, the Department of Fish and Game has been renamed as the Department of Fish and Wildlife.

Permit No. 2081-2008-013-05, Spineflower Incidental Take Permit No. 2081-2008-012-05, and Master Streambed Alteration Agreement No. 1600-2004-0016-R5 (the "Project").

- b. Set aside its certification of the Final Environmental Impact Report prepared in connection with the Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan, State Clearinghouse No. 2000011025 (the "EIR").
- c. Set aside its Findings, the Statement of Overriding Considerations, and the Mitigation and Monitoring Program adopted in connection with the Newhall Ranch Resource Management and Development Plan, Spineflower Conservation Plan, Multi-Species Incidental Take Permit No. 2081-2008-013-05, Spineflower Incidental Take Permit No. 2081-2008-012-05, Master Streambed Alteration Agreement No. 1600-2004-0016-R5, and the EIR.
- 3. Pursuant to Public Resources Code § 21168.9(a)(2), because specific Project activity or activities would prejudice the consideration or implementation of particular mitigation measures or alternatives to the Project, the Department, Newhall, and their successors are enjoined from proceeding with any and all Project activities that could result in an adverse change or alteration to the physical environment, unless and until such time as the Department has certified an environmental impact report that complies with the California Environmental Quality Act by correcting the deficiencies identified in the Court's Statement of Decision and in this Judgment. "Project activities" include all activities authorized under the Newhall Ranch Resource Management and Development Plan, Spineflower Conservation Plan, Multi-Species Incidental Take Permit No. 2081-2008-013-05, Spineflower Incidental Take Permit No. 2081-2008-012-05, and Master Streambed Alteration Agreement No. 1600-2004-0016-R5.
  - 4. The Court shall retain jurisdiction over the proceedings pursuant to Public

1

2

3

Resources Code section 21168.9(b). Nevertheless, the Court intends this to be a final, appealable judgment.

- 5. Pursuant to Public Resources Code section 21168.9(c), the Court does not direct the Department to exercise its discretion in any particular way.
- 6. Petitioners are prevailing parties entitled to apply for attorney fees through appropriate noticed motions after entry of this Judgment. This Court retains jurisdiction to hear such motions and determine entitlement to, and amount of, such fees, if any, pursuant to them. If such a motion is granted, this judgment will be amended to award attorneys' fees pursuant to Code of Civil Procedure Section 1021.5.
- Petitioners are prevailing parties entitled to seek costs pursuant to Code of 7. Civil Procedure sections 1032 and 1033.5.
- 8. The Department shall file a return to the peremptory writ no later than 60 days after the date of the issuance of the peremptory writ which shall state that it has complied with said writ or that an appeal from the judgment has or will be filed. Any objections to the return shall be filed no later than 30 days after service of the return.

3

DATED: OCTOBER <u>15</u>, 2012

ANN I. JONES, JUDGE OF THE SUPERIOR COURT

A. J TZ 4 CIDN 101157	
Adam Keats, SBN 191157	
CENTER FOR BIOLOGICAL DIVERSITY	
351 California St., Suite 600	
San Francisco, CA 94104	
TELEPHONE NO.: 415-436-9682 x304 FAX NO. (Optional): 415-436-9683	
E-MAIL ADDRESS (Optional) alkeats @biological diversity.org	
ATTORNEY FOR (Name): Petitioners	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles	
STREET ADDRESS: 111 N. Hill St.	
MAILING ADDRESS: 111 N. Hill St.	•
CITY AND ZIP CODE: LOS Angeles, CA 90012	
BRANCH MAME: Stanley Mosk Courthouse	
PETITIONER/PLAINTIFF: Center for Biological Diversity et al.	
RESPONDENT/DEFENDANT: California Department of Fish and Game et al.	
	·
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL	CASE NUMBER:
PROOF OF SERVICE STATION - OFFICE OTTE	BS 131347
(Do not use this Proof of Service to show service of a Summons	
<ol> <li>I am over 18 years of age and not a party to this action. I am a resident of or employe took place.</li> </ol>	
2. My residence or business address is:	
CENTER FOR BIOLOGICAL DIVERSITY, 351 California St., San Fr	ancisco, CA 94104
3. On (date): October 1, 2012   mailed from (city and state): Phoenix, AZ	
the following documents (specify):	
<ol> <li>On (date): October 1, 2012   mailed from (city and state): Phoenix, AZ the following documents (specify): PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT C</li> </ol>	OF MANDATE;
the following documents (specify):	OF MANDATE;
the following documents (specify):  PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT C PROPOSED STATEMENT OF DECISION  The documents are listed in the Atlachment to Proof of Service by First-Class Ma	
the following documents (specify):  PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT C PROPOSED STATEMENT OF DECISION  The documents are listed in the Attachment to Proof of Service by First-Class Material (form POS-030(D)).	
the following documents (specify):  PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT CONTROLL PROPOSED STATEMENT OF DECISION  The documents are listed in the Attachment to Proof of Service by First-Class Marketing (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a.  depositing the sealed envelope with the United States Postal Service with the byte placing the envelope for collection and mailing following our ordinary business business's practice for collecting and processing correspondence for mailing. It is deposited in the ordinary course of business's practice for collection and mailing, it is deposited in the ordinary course of business's practice.	til—Civil (Documents Served) e postage fully prepaid. and electronic mais practices. I am readily familiar with this On the same day that correspondence is
the following documents (specify):  PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT OF PROPOSED STATEMENT OF DECISION  The documents are listed in the Atlachment to Proof of Service by First-Class Mark (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a. depositing the sealed envelope with the United States Postal Service with the b. placing the envelope for collection and mailing following our ordinary business business's practice for collecting and processing correspondence for mailing. I placed for collection and mailing, it is deposited in the ordinary course of busines a sealed envelope with postage fully prepaid.	til—Civil (Documents Served) e postage fully prepaid. and electronic mais practices. I am readily familiar with this On the same day that correspondence is
the following documents (specify):  PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT CONTROLL PROPOSED STATEMENT OF DECISION  The documents are listed in the Atlachment to Proof of Service by First-Class Mar (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a.  depositing the sealed envelope with the United States Postal Service with the b. placing the envelope for collection and mailing following our ordinary business business's practice for collecting and processing correspondence for mailing. It is deposited in the ordinary course of business a sealed envelope with postage fully prepaid.  The envelope was addressed and mailed as follows:	til—Civil (Documents Served) e postage fully prepaid. and electronic mass practices. I am readily familiar with this On the same day that correspondence is
the following documents (specify):  PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT CONTROLL PROPOSED STATEMENT OF DECISION  The documents are listed in the Atlachment to Proof of Service by First-Class Mac (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a.  depositing the sealed envelope with the United States Postal Service with the b. placing the envelope for collection and mailing following our ordinary business business's practice for collecting and processing correspondence for mailing. It is deposited in the ordinary course of business a sealed envelope with postage fully prepaid.  The envelope was addressed and mailed as follows:  a. Name of person served:	til—Civil (Documents Served) e postage fully prepaid. and electronic mass practices. I am readily familiar with this On the same day that correspondence is
the following documents (specify):  PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT CONTROLL PROPOSED STATEMENT OF DECISION  The documents are listed in the Atlachment to Proof of Service by First-Class Mar (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a.  depositing the sealed envelope with the United States Postal Service with the b. placing the envelope for collection and mailing following our ordinary business business's practice for collecting and processing correspondence for mailing. It is deposited in the ordinary course of business a sealed envelope with postage fully prepaid.  The envelope was addressed and mailed as follows:	til—Civil (Documents Served) e postage fully prepaid. and electronic mass practices. I am readily familiar with this On the same day that correspondence is
the following documents (specify):  PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT CONTROPOSED STATEMENT OF DECISION  The documents are listed in the Attachment to Proof of Service by First-Class Max (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a.  depositing the sealed envelope with the United States Postal Service with the b. placing the envelope for collection and mailing following our ordinary business business's practice for collection and processing correspondence for mailing. It is deposited in the ordinary course of business a sealed envelope with postage fully prepaid.  The envelope was addressed and mailed as follows:  a. Name of person served:	il—Civil (Documents Served) e postage fully prepaid. and electronic mass practices. I am readily familiar with this On the same day that correspondence is
the following documents (specify):  PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT CONTROLL PROPOSED STATEMENT OF DECISION  The documents are listed in the Atlachment to Proof of Service by First-Class Mac (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a.  depositing the sealed envelope with the United States Postal Service with the b. placing the envelope for collection and mailing following our ordinary business business's practice for collecting and processing correspondence for mailing. It is deposited in the ordinary course of business a sealed envelope with postage fully prepaid.  The envelope was addressed and mailed as follows:  a. Name of person served:	til—Civil (Documents Served) e postage fully prepaid. and electronic mais practices. I am readily familiar with this On the same day that correspondence is
the following documents (specify):  PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT CONTROPOSED STATEMENT OF DECISION  The documents are listed in the Atlachment to Proof of Service by First-Class Materian (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a.  depositing the sealed envelope with the United States Postal Service with the b. placing the envelope for collection and mailing following our ordinary business business's practice for collecting and processing correspondence for mailing. It is deposited in the ordinary course of business a sealed envelope with postage fully prepaid.  The envelope was addressed and mailed as follows:  a. Name of person served:	til—Civil (Documents Served) e postage fully prepaid. and electronic mais practices. I am readily familiar with this On the same day that correspondence is
the following documents (specify):  PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT OF PROPOSED STATEMENT OF DECISION  The documents are listed in the Attachment to Proof of Service by First-Class Mar (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a.  depositing the sealed envelope with the United States Postal Service with the b. placing the envelope for collection and mailing following our ordinary business business's practice for collection and processing correspondence for mailing. It is deposited in the ordinary course of busines a sealed envelope with postage fully prepaid.  The envelope was addressed and mailed as follows:  a. Name of person served:  b. Address of person served:	e postage fully prepaid. and electronic man s practices. I am readily familiar with this On the same day that correspondence is less with the United States Postal Service in
the following documents (specify): PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT CONTROL PROPOSED STATEMENT OF DECISION  The documents are listed in the Attachment to Proof of Service by First-Class Mar (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a.	e postage fully prepaid. and electronic mais practices. I am readily familiar with this on the same day that correspondence is less with the United States Postal Service in the Attachment to Proof of Service
the following documents (specify): PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT OF PROPOSED STATEMENT OF DECISION  The documents are listed in the Attachment to Proof of Service by First-Class Mar (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a.	e postage fully prepaid. and electronic mais practices. I am readily familiar with this on the same day that correspondence is less with the United States Postal Service in the Attachment to Proof of Service
PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT CONTROL PROPOSED STATEMENT OF DECISION  The documents are listed in the Attachment to Proof of Service by First-Class Materian (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a.	e postage fully prepaid. and electronic mais practices. I am readily familiar with this on the same day that correspondence is less with the United States Postal Service in the Attachment to Proof of Service
the following documents (specify):  PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT OF PROPOSED STATEMENT OF DECISION  The documents are listed in the Attachment to Proof of Service by First-Class Mark (form POS-030(D)).  I served the documents by enclosing them in an envelope and (check one):  a.  depositing the sealed envelope with the United States Postal Service with the b.  placing the envelope for collection and mailing following our ordinary business business's practice for collection and mailing following our ordinary course of mailing. It is deposited in the ordinary course of business a sealed envelope with postage fully prepaid.  The envelope was addressed and mailed as follows:  a. Name of person served:  b. Address of person served:  The name and address of each person to whom I mailed the documents is listed in by First-Class Mail—Civil (Persons Served) (POS-030(P)).  I declare under penalty of perjury under the laws of the State of California that the foregoing Date: October 1, 2012  Adam Keats	e postage fully prepaid. and electronic mais practices. I am readily familiar with this on the same day that correspondence is less with the United States Postal Service in the Attachment to Proof of Service

SHORT TITLE: Center for Biological Diversity et al. v. Cal. Dept of Fish and Game, et al.

CASE NUMBER: BS131347

Address (number, street, city, and zip code)

## ATTACHMENT TO PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL (PERSONS SERVED)

(This Attachment is for use with form POS-030)

## NAME AND ADDRESS OF EACH PERSON SERVED BY MAIL:

Name of Person Served

•	
Thomas Gibson, General Counsel John H. Mattox, Senior Staff Counsel	Office of the General Counsel, Cal. Dept of Fish and Game 1416 Ninth St., 12th Floor, Sacramento, CA 95814
Mark J. Dillon, Danielle K. Morone, Aarti S. Kewalramani	Gatzke Dillon & Balance LLP 1525 Faraday Ave., Suite 150, Carlsbad CA 92008
Patrick G. Mitchell Meghan M. Dunnagan	Downey Brand LLP 1420 Rocky Ridge Drive, Suite 250, Roseville, CA 95661
Tina A. Thomas, Ashle T. Crocker, Amy R. Higuera	Thomas Law Group 455 Capitol Mall, Suite 801, Sacramento, CA 95814
	·
BY ELECTRONIC MAIL	
John H. Mattox	jmattox@dfg.ca.gov
Mark J. Dillon	mdillon@gdandb.com
Patrick G. Mitchell	pmitchell@downeybrand.com
Tina A. Thomas	tthomas@thomaslaw.com