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FILED

SEP 16 2026

Superior Court of California
County of Tuolumne

By _____ Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF TUOLUMNE

DORRIYA ANDERSON; CRAIG ANDERSON; JAMES ROBERTS; JOANN ROBERTS, FRANK FERNANDEZ, ANTONIO FERNANDEZ, JIM FERNANDEZ, and PATRICIA REH,

Plaintiffs

v.

JOHN LAMAR SLATON, an individual; BRUCE SLATON, an individual; ROBERT A. WOODWORTH and DIANE WOODWORTH, individually and as trustees; DJ SLATON EXCAVATION, form unknown; COUNTY OF TUOLUMNE, a political subdivision of the State of California; and Does 1-50 , inclusive,

Defendants.

CASE NO. CV68663

VERIFIED OPPOSITION TO PLAINTIFFS' EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND RELATED RELIEF

(No Hearing Scheduled- MOVING PAPERS ARE WITH ~~COMMISSIONER MOISEYEV~~ Judge Campbell)

Defendant Bruce Slaton (hereinafter, "B. Slaton") submits the following Opposition to Plaintiffs' "Ex Parte Application for Temporary Restraining Order [Etc.]," apparently filed on September 11, 2026 (hereinafter, "the Ex Parte Application").

I. INTRODUCTION. Without causing any owner of the Subject Property to be served with the Summons and Complaint in this action, or with the Ex Parte Application itself (i.e., without any due process whatsoever), Plaintiffs now seek an Order from this Court that effectively thwarts **lawful activities on private property** in which Plaintiffs have NO interest. As will be

demonstrated below, Plaintiffs have no reasonable probability of success on the merits, which precludes injunctive relief in general; and plaintiffs have shown nothing that would justify the extraordinary relief sought here without notice or due process. Plaintiffs' hands are not clean; and both Ms. Orth herself and Scott Fischler, a material witness, are repeated trespassers on private property. Plaintiffs, who simply are NIMBYs ("not in my back yard"), are using this lawsuit for an improper purpose- to thwart legitimate development of private property simply because Plaintiffs disapprove of it. The Ex Parte Application should be DENIED.

II. THE SUBJECT PROPERTY: This lawsuit pertain to real property commonly known as 18955 Industry Way, Sonora CA (hereinafter, "the Subject Property"). Bruce Slaton, the only defendant who has been served with anything in this case, is NOT an owner of the Subject Property. However, Bruce Slaton has assisted in the development of the Subject Property, has personal knowledge of the facts stated below and is therefore aware that both this lawsuit and the Ex Parte Application itself are **entirely bogus**.

Bruce Slaton's adult son, Defendant John Lamar Slaton, is one of the Subject Property's owners. John Slaton, like the other owners of the Subject Property, has **not** been served with the Summons and Complaint in this case, or with the Ex Parte Application tself, and is NOT before the Court. (See proofs of service or lack thereof in Court's file.) The Ex Parte Application presents **serious due process concerns** for the actual owners.

A. BUSINESS PARK ZONING: A search of the Tuolumne County Official Records reveals that the Subject Property is zoned Business Park. "The purpose of the Business Park (BP) District is to provide for a mixture of industrial and commercial land uses with an emphasis on manufacturing, processing, assembly, storage, distribution, wholesale business, and research and development activities in campus-like business or industrial park settings." Tuolumne County Ordinance Code § 17.14.010(a)(7). Thus, the Subject Property is zoned "for a mixture of industrial and commercial land uses," NOT residential use. "Storage, distribution, wholesale business and development activities"- in other words, exactly what is occurring on the Subject Property- is/are expressly permitted by the Business Park zoning of the Subject Property.

To the extent that any of the Plaintiffs have their residences on Industry Way, where the

Subject Property is located, they live on land that is likely zoned for "for a mixture of industrial and commercial land uses," NOT residential use. To the extent that any of the Plaintiff's real properties adjoin the Subject Property, they adjoin real property that is NOT zoned for residential use but is instead zoned for exactly what is occurring on the Subject Property: "processing, assembly, storage, distribution, wholesale business, ... and development activities." Tuolumne County Ordinance Code § 17.14.010(a)(7).

B. LEGITIMATE, LAWFUL ACTIONS BY DEFENDANTS: The activities, both development and otherwise, that have occurred on the Subject Property at any relevant time have been with applicable permits and entitlements, and under the supervision and jurisdiction of governmental agencies with jurisdiction, including the Tuolumne County Community Development Department and the Tuolumne County Air Pollution Control District. This is NOT a fly-by-night, under the radar operation. Instead, the development activities at the Subject Property have been "by the book," with appropriate permits and entitlements, entirely consistent with the Business Park zoning of the Subject Property.

Material like that now subject of the Ex Parte Application has been stored on and removed from the Subject Property in the ordinary course of business for years, as Business Park zoning permits. It is only now that anti-development "crusaders" like Ms. Orth and Scott Fischler have recently arrived on the scene that removal of material from the Subject Property has suddenly become an issue. As stated, both Ms. Orth- a lawyer in this case- and Scott Fischler, now a witness, have trespassed on the Subject Property since the commencement of the above-captioned case.

With respect to the removal of material subject of the Ex Parte Application, the application itself admits that neither "Community Development Director Tamara Blankenship, [nor] Kent Rasmussen of the Air Pollution Control District... stopped the removal, and Ms. Blankenship [stated] there was nothing they could do to stop it." (Ex Parte App. at 8:1-4.) "Todd James of the County Counsel's office... stated that the County had no authority to stop the removal." (Id., at 9:5-7.) This is because there was nothing wrong with or unlawful concerning the removal of non-hazardous material from private property that is zoned for the activities that have been occurring on the Subject Property.

III. SUBJECT MATERIAL: NON-HAZARDOUS AND EXEMPT.

This entire lawsuit is a tempest in a teapot, much ado about nothing. The material that is the subject of the Ex Parte Application is NOT "restricted material" as defined in part (i)(20) of Section 93106 of Title 17 of the California Code of Regulations. The same definition is essentially found in part (b) of Section 93106 of Title 17 of the California Code of Regulations, also discussed below. As will be demonstrated, the material subject of the Ex Parte Application is exempt from Sections 93105 *et seq.* of Title 17 of the California Code of Regulations and is essentially harmless road-base, found all over Tuolumne County.

Sections 93105 *et seq.* of Title 17 of the California Code of Regulations prescribe "asbestos airborne toxic control measure (sic) for construction, grading, quarrying and surface mining operations." See, e.g., title of § 93105, Tit. 17, Cal. Code Regs. Section 93106 of Title 17 of Title 17 of the Cal. Code of Regulations, discussed next, is part of the regulations governing airborne toxic control measures for construction, grading, etc.

Part (i) of Section 93106 of Title 17 of the California Code of Regulations contains "definitions" for use in interpreting Section 93106. Part (i)(20) of Section 93106 of Title 17 of the California Code of Regulations states in relevant part that "'Restricted material' means any of the following: (A) Aggregate material extracted from property where any portion of the property is located in a geographic ultramafic rock unit (as defined in subsection (i)(9)); and (B) Aggregate material extracted from property that is NOT located in a geographic ultramafic rock unit (as defined in subsection (i)(9)) if the material has been: 1. Evaluated at the request of the Air Pollution Control Officer (APCO) and determined to be ultramafic rock or serpentine; 2. Tested at the request of the APCO and determined to have an asbestos content of 0.25 percent or greater; or 3. Determined by the owner operator of a facility to be ultramafic rock, serpentine, or aggregate material that has an asbestos content of 0.25 percent or greater. (C) Any mixture of aggregate material that contains ten percent (10%) or more of any of the materials listed above in subsections (i)(20)(A) or (i)(20)(B), or any combination thereof, shall also be considered "restricted material." § 93106(i)(20), Tit. 17, Cal. Code Regs.

The Material recently removed from the site does NOT meet any of the criteria for

"restricted material" set forth in part (i)(20) of Section 93106 of Title 17 of the Code of Regulations. For instance, material recently removed from the site is NOT "aggregate material extracted from property located in a geographic ultramafic rock unit as defined in subsection (i)(9) of Section 93106. Material recently removed from the site has NOT been evaluated at the request of the Air Pollution Control Officer (APCO) [the Tuolumne County Air Pollution Control District] and determined to be ultramafic rock or serpentine. Material recently removed from the site was NOT been tested at the request of the APCO and determined to have an asbestos content of 0.25 percent or greater; or determined by the owner/operator of a facility to be ultramafic rock, serpentine, or aggregate material that has an asbestos content of 0.25 percent or greater. Material recently removed from the site did NOT contain ten percent (10%) or more of any of the materials discussed above. In other words, NONE of the material recently removed from the site is "restricted material" as defined in Part (i)(20) of Section 93106 of Title 17 of the California Code of Regulations. This is one of the reasons that the County did nothing to stop the material's recent removal from the site- the material was NOT "restricted."

For exactly the same reasons, there is no known material remaining at the Subject Property that is "restricted material" as defined in Part (i)(20) of Section 93106 of Title 17 of the California Code of Regulations.

Because neither any material recently removed from the site nor any material remaining on the site is "restricted material," this means that the material subject of the Ex Parte Application is NOT subject to the testing requirements of Section 93106 of Title 17 of the California Code of Regulations. Part (c) of Section 93106 of Title 17 of the California Code of Regulations states that "no person shall use, apply... any restricted material (as defined in subdivision (i)(2) for surfacing, unless it has been tested using an approved asbestos bulk test method and determined to have an asbestos content that is less than 0.25 percent." Since neither the material recently removed from the site nor any material remaining at the site is "restricted material," the material is NOT subject to the testing requirements of Part (c) of Section 93106.

Part (b) of Section 93106 of Title 17 of the California Code of Regulations states that "this section shall apply to any person who.... uses, applies or transports" materials that meet the

definition of "restricted materials" found in part (i)(20), discussed above. See Part (b) of Section 93106 of Title 17 of the California Code of Regulations. As demonstrated, however, neither any material recently removed from the site or remaining at the site meets the definition of "restricted materials" found in part (i)(20) nor the same definitions found in part (b) of Section 93106. Accordingly, since the subject materials do NOT meet the definitions found in part (b) thereof, **Section 93106 of Title 17 of the Cal. Code of Regulations IS INAPPLICABLE.** There is no legal requirement for testing or mitigation of the materials. The materials are neither restricted nor hazardous.

Had the materials subject of the Ex Parte Application been restricted or hazardous, then the government would have stopped their removal and transport. However, since the materials subject of the Ex Parte Application are neither restricted nor hazardous, they are NOT subject to Section 93106, and their removal from the site was not impeded by the government, nor should it have been.

A. NO STANDING BY PLAINTIFFS. Because the materials subject of the Ex Parte Application are neither restricted nor hazardous, Plaintiffs have no standing to try to stop the use of the materials by any Defendant at the Subject Property. Plaintiffs have no standing to try to stop the use of materials that are neither restricted nor hazardous, on private property that is zoned for exactly the activities that are occurring at the Subject Property. As stated, to the extent that any of the Plaintiffs have their residences on Industry Way, where the Subject Property is located, they live on land that is likely zoned for "for a mixture of industrial and commercial land uses," NOT residential use. To the extent that any of the Plaintiff's real properties adjoin the Subject Property, they adjoin real property that is NOT zoned for residential use but is instead zoned for exactly what is occurring on the Subject Property: "processing, assembly, storage, distribution, wholesale business, ... and development activities." Tuolumne County Ordinance Code § 17.14.010(a)(7).

IV. NO REASONABLE POSSIBILITY OF SUCCESS ON THE MERITS.

It is hornbook law that injunctive relief, such as TRO, requires a reasonable probability of success on the merits. *White v. Davis* (2003) 30 Cal.4th 528, 554. Here, Plaintiffs CANNOT prevail on the merits. There is no possibility that Plaintiffs can establish that any material that was

removed from the site or is still there meets the definition of "restricted materials" found in parts (b) or (i)(20) Section 93106 of Title 17 of the California Code of Regulations. There is no possibility that Plaintiffs can show that it was unlawful or a violation of any Regulation to use, store or transport any material now or recently at the site. Before Plaintiffs can receive an injunction against lawful activities occurring on private property zoned for such activities, Plaintiffs should be required to allege and provide evidence that some relevant material meets the definition of "restricted materials" found in parts (b) or (i)(20) Section 93106 of Title 17 of the California Code of Regulations. Plaintiffs cannot possibly do this with truthful, admissible evidence, because none exists.

Before Plaintiffs receive injunctive relief against lawful activities on private property zoned for those activities, Plaintiffs should come forth with some evidence, by a qualified person with personal knowledge, that some of the material at the Subject Property actually meets the definition of "restricted materials" found in parts (b) or (i)(20) Section 93106 of Title 17 of the California Code of Regulations. Speculation about this by Plaintiffs and their lawyer is not sufficient; Plaintiffs need evidence for injunctive relief, and they do not have any. By itself, the lack of non-speculative evidence that any material at the Subject Property actually meets the definition of "restricted materials" found in parts (b) or (i)(20) Section 93106 of Title 17 of the California Code of Regulations compels the denial of injunctive relief. *White v. Davis*, supra, 30 Cal.4th at p. 554.

If any of the myriad of governmental agencies overseeing the development of the Subject Property thought that the materials in use there actually meets the definition of "restricted materials" found in parts (b) or (i)(20) Section 93106 of Title 17 of the California Code of Regulations, then it is likely that action would have been taken against the material's removal. The lack of action speaks volumes about how the relevant governmental agencies view the materials at the site, zoned for the activities occurring there. Harmless roadbase and material on private property, appropriately zoned.

Because Plaintiffs have no reasonable possibility of success on the merits, the ex parte application must be denied. *White v. Davis*, supra, 30 Cal.4th at p. 554.

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V. BALANCE OF HARDSHIPS FAVORS DEFENDANTS.

Another factor the Court will consider in deciding whether to grant injunctive relief is whether the balance of hardships tilts in favor of or against either party. *White v. Davis*, supra, 30 Cal.4th at p. 554. Here, the balance of hardships tilts in favor of Defendants, because Plaintiffs' request for injunctive relief is overbroad. Plaintiffs seek injunctive relief against the removal of ANY materials from the Subject Property. This effectively thwarts the further development of the Subject Property, zoned for the activities occurring there.

While seeking to halt the further development of the Subject Property (which is Plaintiffs' primary objective in bringing this lawsuit), Plaintiffs have come forth with no evidence of what specific materials on the Subject Property might somehow meet the definition of "restricted materials" found in parts (b) or (i)(20) Section 93106 of Title 17 of the California Code of Regulations. Plaintiffs' request that NO materials be removed from the Subject Property is simply OVERBROAD, given that Plaintiffs have not identified the specific materials now on the Subject Property that might somehow meet the definition of "restricted materials" found in parts (b) or (i)(20) Section 93106 of Title 17 of the California Code of Regulations.

Before Plaintiffs receive injunctive relief against lawful activities on private property zoned for those activities, Plaintiffs should identify with specificity the materials on the Subject Property that Plaintiffs believe meet the definition of "restricted materials" found in parts (b) or (i)(20) Section 93106 of Title 17 of the California Code of Regulations. Plaintiffs should describe the material with specificity, including its color and apparent composition (asphalt, concrete, roadbase, rock, etc.) and location on the Subject Property; and should explain why Plaintiffs believe that the material meets the definitions found in parts (b) or (i)(20) Section 93106 of Title 17 of the California Code of Regulations. Absent these specifics, Plaintiffs are merely speculating about lawful material found on private property in which none of the Plaintiffs have any legitimate interest. The recent trespasses on the Subject Property, based on pure speculation, by Plaintiffs and their representatives, including Ms. Orth and Mr. Fischler, are inexcusable, given Plaintiffs' failure and refusal to identify and describe with specificity the materials on the Subject Property that they believe meet the definition of "restricted materials" found in parts (b) or (i)(20) Section 93106 of

Title 17 of the California Code of Regulations. Thwarting legitimate development on real property zoned for that development is not a legitimate use of the judicial system, absent some specific evidence that some material on the Subject Property might somehow be restricted.

In short, Plaintiffs, WHO BEAR THE BURDEN OF PROOF, have not shown a probability of success on the merits or that the balance of harms favors Plaintiffs. Plaintiffs' request for injunctive relief, that will effective thwart further development of the Subject Property, is simply **overbroad.**

VI. CONCLUSION. Based on the foregoing discussion, Defendant Bruce Slaton respectfully asks the Court to deny Plaintiffs' request for any form of injunctive relief.

MeyerPink Law, LLP

Dated: September 15, 2026

By _____
Michael R. Germain
Attorneys for Defendant, Bruce Slaton

Verification Follows On Next Page

VERIFICATION

I, Bruce Slaton, have read the foregoing Opposition and am familiar with the contents thereof. The same is true of my own personal knowledge, except for matters alleged therein on information and belief, and as to such matters, I am informed and believe that they are true and correct. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification was executed on September 15, 2026 at Sonora, California.

Bruce Slaton