BEFORE THE TUOLUMNE COUNTY LOCAL SOLID WASTE HEARING PANEL

In Re The Petition of DORRIYA ANDERSON, CRAIG ANDERSON, JAMES ROBERTS, JOANN ROBERTS, FRANK FERNANDEZ, ANTONIO FERNANDEZ, JIM FERNANDEZ, JULIE BRITT and PATRICIA REH, Petitioners,

for Hearing Regarding Alleged Failure to Act by The Tuolumne County Local Enforcement Agency [Pub. Res. Code §§ 44307, 44310) - Site: 18955 Industry Way, Sonora CA (APN 097-090-10); SWIS No. 55-AA-0017).

Related Litigation: Dorriya Anderson, Craig Anderson, James Roberts, Frank Fernandez, Antonio Fernandez, Jim Fernandez, Julie Britt and Patricia Reh v. John Lamar Slaton, Bruce Slaton, et al., Case No. CV68663, Tuolumne County Superior Court.

RESPONSE OF INTERESTED PARTY/DEFENDANT BRUCE SLATON TO PETITION AND STATEMENT OF ISSUES:

Hearing Date/Time: October 15, 2026, 9 a.m.

Interested Party Bruce Slaton ("Mr. Slaton"), a Defendant in the related litigation mentioned above, and whose rights foreseeably may be affected by the proceedings on 10/15/2026 at 9 a.m., submits this written response to the Petition mentioned above ("the Petition") by the above-referenced Petitioners (collectively, "Petitioners").

OVERVIEW: This untimely Petition is brought by folks who have been trying for years to thwart development of the Site. The Site is located on INDUSTRY Way, and is zoned for industrial and commercial use, not residential use. All Petitioners live on or adjacent to real property zoned for commercial and industrial uses. The collaborative development of the Site occurred with significant regulatory oversight, exercised with appropriate discretion. There is no evidence before this panel that any material on or removed from the Site is either "restricted material" or contained asbestos-type material. The only evidence before this Panel is that the material removed from the Site around 9/11/2026 was tested by an independent asbestos testing service and found to have NO asbestos. Petitioners should take nothing by their Petition. The untimely Petition should be DENIED outright.

Due Process Concerns: Despite seeking relief that foreseeably affects the legal rights of the owners of the Site and of Mr. Slaton, Petitioners neither served nor attempted to serve their Petition upon those parties. It was not until repeated requests for a copy of the Petition were made by Mr. Slaton's lawyer (and ignored) that **Petitioners, through counsel, finally served a copy of the Petition on Mr. Slaton, through counsel, via email the evening of October 13, 2026, roughly 36 hours before the 11/15/2026 hearing.** Petitioners did not effect or attempt to effect service of their Petition upon the owners of the Site.

Under these circumstances, caused entirely by Petitioners, serious concerns exist about the **due process rights** of anyone whose rights might foreseeably be affected by the relief sought by the Petition. The owners of the site were not served at all with the Petition, as stated. Mr. Slaton had about 36 hours prior to the hearing to respond to the Petition. This is NOT Constitutionally-sufficient time for Mr. Slaton to respond meaningfully to the Petition. *Matthews v. Elridge* (1976) 42 U.S. 319.

Petition is Not Timely/Scope Limited: If it chooses to proceed despite the due process concerns stated above, this Panel lacks jurisdiction under Pub. Res. Code § 44310(a)(1)(B) to review any action of the LEA that occurred prior to August 15, 2026. Under Pub. Res. Code § 44310(a)(1)(B), the Panel has jurisdiction to review only action or inaction by the LEA that supposedly occurred after August 15, 2026.

Petitioners have brought their Petition pursuant to Public Resources Code §§ 44307 and 44310. (See, e.g., First Page of Petition.) Pub. Res. Code § 44310(a) governs the procedures for the hearing on 10/15/26 at 9 a.m. (the "Subject Hearing"). Pub. Res. Code § 44310(a)(1)(B) states that "if the hearing request is made by a person alleging that the enforcement agency failed to act as required by law or regulation pursuant to Section 44307, the person shall file a request for a hearing within 30 days from the date the person discovered or reasonably should have discovered, the facts on which the allegation is based."

Before the Panel is a letter by Ms. Orth, Petitioners' lawyer, dated June 2, 2026, to Debbie Larsen, Environmental Health Director, demanding enforcement action directly against the owners of the Site, based on substantially the same facts that are now alleged in the Petition. (Ex. 13 to County LEA's Response to Petition.) Petitioners are charged with the knowledge of their lawyer Ms. Orth. Ms. Orth's 6/2/2026 letter to the LEA demonstrates that these Petitioners have known since June 2, 2026 **at the latest** of the facts on which the Petition is based. As demonstrated below, these Petitioners have been complaining to the County **for years** about the development of the Site. (Larsen letter to CalRecycle, Ex. 5 to County's Response to Petition, at p. 1.)

These same Petitioners have sued the County, the owners of the Site and Mr. Slaton. In their own Complaint, filed 8/3/2026, these Petitioners make the following allegation: "Within approximately two weeks of the May 11, 2026 directive [by the LEA], the Slaton Defendants commenced removal and transfer operations at the site generating visible dust migrating into the adjacent residential neighborhood." (Complaint filed 8/3/26 at 8:20-22.) The allegations of Petitioners' own Complaint, filed 8/2/2026, show that Petitioners likely knew about the alleged failure of the LEA to act by May 25, 2026 at the latest. (Id.)

However, Petitioners waited until September 15, 2026 to file their Petition.

Therefore, under Pub. Res. Code § 44310(a)(1)(B), this Panel lacks jurisdiction to review any action or inaction by the LEA that supposedly occurred prior to August 15, 2026, which was

the 30th day before the Petition was filed. This Panel has jurisdiction to review only action or inaction by the LEA that supposedly occurred after August 15, 2026. Pub. Res. Code § 44310(a)(1)(B).

The Site- BUSINESS PARK ZONING: A review of the Tuolumne County Official Records shows that the Site 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 Site is zoned "for a mixture of industrial and commercial land uses," NOT residential use. The "storage, distribution, wholesale business and development activities on the Site are expressly permitted by the Business Park zoning of the Site.

Petitioners Live On or Adjacent to Business Park Zoning, Not Residential Zoning: If any of the Petitioners live on Industry Way, where the Site is located, they live on land that is zoned for "for a mixture of industrial and commercial land uses," NOT residential use. If any of the Petitioners' real properties adjoin the Site, they adjoin real property that is NOT zoned for residential use but is instead zoned for exactly what is occurring on the Site: "processing, assembly, storage, distribution, wholesale business, ... and development activities." Tuolumne County Ordinance Code § 17.14.010(a)(7).

NIMBYs (Not in My Back Yard): Petitioners have been trying FOR YEARS to thwart legitimate development of the Site. Petitioner have been making complaints to the County FOR YEARS concerning development of the Site. On September 12, 2025, Debbie Larsen, Environmental Health Director, wrote a letter to CalRecycle, in which Ms. Larsen states that "the County received complaints over time" and "time passed and more complaints and inspections ensued." (See Larsen letter to CalRecycle of 9/12/2025, Ex. 5 to County Resp. to Petition.) Apparent NIMBYs, Petitioners have been complaining to the County about and trying to thwart development of the Site FOR YEARS. (Id.)

Collaborative Development With Governmental Entities: The activities, both development and otherwise, that have occurred on the Site at any relevant time have been conducted with applicable permits, and under the supervision and jurisdiction of governmental agencies, including the Tuolumne County Community Development Department and the Tuolumne County Air Pollution Control District.

In her September 12, 2025 letter to CalRecycle, Debbie Larsen, Environmental Health Director, CORRECTLY states as follows: "The LEA has reviewed documents and pictures by Code Enforcement Officers, inspected the site, and concluded that the inert debris placed in the fill has had significant visual and regulatory oversight, i.e., **the regulatory oversight has been extensive** in identifying and mitigating environmental health and safety." (Larsen letter to CalRecycle, Ex. 5 to County's Response to Petition, at p. 1; emphasis added.)

Thus, the development activities at the Site have been conducted with "extensive regulatory oversite." (See, e.g., Larsen letter to CalRecycle of 9/12/2025, Ex. 5 to County Resp. to Petition.) All governmental agencies with oversight authority over the Site exercised their oversight discretion reasonably prior to the commencement of the Petition.

Until Petitioners sued everyone concerned in August, 2026, the development and other activities at the Site were substantially collaborative between the owners/operators of the Site and all governmental agencies with jurisdiction over the Site.

Petitioners Themselves Caused Lack of Recent Access to Site by LEA: Various other parties, including Petitioners, have FALSELY stated or alluded to this Panel that the LEA was refused access to the Site for inspection starting around September 11, 2026 and therefore an inspection warrant might be appropriate. This is not correct or accurate.

What happened instead is that Petitioners themselves completely changed the protocol for inspection of the Site by commencing their lawsuit against all interested parties in August, 2026. (See Complaint in Anderson v. Slaton et al, Case No. 68663, Tuolumne Cty. Sup. Ct.) In August, 2026, Petitioners sued the County, including the LEA; they sued the property owners; they sued people like Bruce Slaton who were involved in developing the Site. (Id.) By suing everyone concerned in August, 2026, Petitioners themselves completely changed the protocol, prescribed by law, for inspection of the Site. Commencing in August, 2026 with the filing of Petitioners' lawsuit, inspection of the Site is now governed by the California Code of Civil Procedure [CCP]. The CCP prescribes a specific protocol that must be followed if anyone wishes to inspect the Site. (See, e.g., CCP §§ 2031.010-2031.060.)

Inspection of the Site by the LEA was NOT REFUSED starting in September, 2026. Instead, all interested parties were instructed to follow the protocol for inspection prescribed by the Code of Civil Procedure, which now applies. That protocol has NOT yet been followed. It is unfortunate that Petitioners have destroyed the collaborative relationship with respect to the Site that existed before Petitioners commenced litigation in August, 2026.

This Panel should view any request for an inspection warrant as an attempt by the requesting party to circumvent the procedures prescribed by law for inspection of the Site that became effective in August, 2026 when Petitioners sued everyone concerned.

Mr. Slaton owns neither the material at the Site nor the Site itself. The assistance he can now offer Petitioners is limited, given that Petitioners have sued him and the County, thereby changing the inspection protocol. Petitioners themselves are entirely responsible for this.

Material at Site NOT "Restricted Material." The material at the site that is the subject of the Petition 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 [and] operations" precisely what is occurring at the Site under its Business Park zoning . Sections 93105 *et seq.* of Title 17 of the California Code of Regulations also seemingly govern asbestos airborne toxic control measures for road projects that have occurred and are occurring throughout the County. See, e.g., title of § 93105, Tit. 17, Cal. Code Regs.

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." § 93106(i)(20), Tit. 17, Cal. Code Regs.

NO ASBESTOS ON SITE: There is no evidence before this Panel that any material at the Site was extracted from other real property located in a geographic ultramafic rock unit as defined by subsection (i)(9) of Section 93106 of Title 17 of the California Code of Regulations. Mr. Slaton denies knowledge of any material at the Site at any time that was extracted from other real property located in a geographic ultramafic rock unit as defined by subsection (i)(9) of Section 93106 of Title 17 of the California Code of Regulations. It would not be in Mr. Slaton's interest to store or transport such material, and he did not knowingly do so. There also is no evidence before this Panel that any such material was used in a relevant County road project, including the Tuolumne Road project.

There is no evidence before this Panel that any material at the Site was evaluated within the past five years at the request of the Air Pollution Control Officer (Tuolumne County Air Pollution Control District) and determined to be ultramafic rock or serpentine. There also is no evidence before this Panel that any such material was used in a relevant County road project, including the Tuolumne Road project.

There is no evidence before this Panel that any material at the Site was tested in the past five years at the request of the APCO [TCAPCD] and determined to have an asbestos content of 0.25 percent or greater. There also is no evidence before this Panel that any such material was used in a relevant County road project, including the Tuolumne Road project.

There also is no evidence before this Panel that any material at the Site was determined by any owner or operator of the Site to be ultramafic rock, serpentine, or aggregate material that has an asbestos content of 0.25 percent or greater. Mr. Slaton denies knowledge of materials with an asbestos content of 0.25 or greater (or any amount) at the site. There also is no

evidence before this Panel that any such material was used in a relevant County road project, including the Tuolumne Road project.

No Legal Requirement that Material Be Tested or Mitigated: Because neither any material removed from the site in September, 2026, nor any material remaining on the site, is "restricted material," this means that the material subject of the Petition 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 removed from the Site around 9/11/2026 nor any material remaining at the Site meets the definition of "restricted materials" found in the California Code of Regulations, discussed above. Accordingly, **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 at or removed from Site.

Only Evidence Before This Panel is NO ASBESTOS: Indeed, the only evidence before this Panel is that the material that was removed from the site around September 11, 2026 was tested off-site, by Precision Micro-Analysis, Inc., an independent testing agency, the very day the material was received (9/11/2026), and found to have NO ASBESTOS. (See Ex. 11 to County Response to Petition.)

CONCLUSION: The untimely Petition should be denied outright. Never served on the owners of the Subject Property, the untimely Petition raises serious due process concerns. The Petition is brought by NIMBYs who have been complaining to the County for years in an effort to thwart development of the Site. The Site is located on INDUSTRY way, and is zoned for industrial and commercial use, not residential use. All Petitioners live on or adjacent to property zoned for industrial and commercial, not residential, use. All activities on the Site have been conducted at all relevant times with significant regulatory oversight, exercised with reasonable discretion. There is no evidence before this panel that any material on or removed from the Site is either "restricted material" or contained asbestos-type material. The only evidence before this Panel is that the material removed from the Site around 9/11/2026 was tested by an independent asbestos testing service and found to have NO asbestos. Petitioners should take nothing by their Petition.

Respectfully submitted,

Dated: October 14, 2026

Michael R. Germain, Cal. Bar # 133553
Of Counsel, MeyerPink Law, LLP
Attorneys for Bruce Slaton

Certification:

I, Bruce Slaton, have read the foregoing Response and am familiar with its contents. The factual statements made in the foregoing Response are true and correct to the best of my knowledge. This Certification was executed in Tuolumne County, California on the date written below.

Dated: October 14, 2026 By

Bruce Slaton