

1 Margolin & Lawrence, Attorneys at Law
Allison Margolin (SBN 222370)
2 Raza Lawrence (SBN 233771)
3 Jennie W. Stepanian (SBN 289371)
8484 Wilshire Blvd., Suite 440
4 Beverly Hills, CA 90211
Telephone: (323) 653-9700
5 Facsimile: (310) 919-0448

6 Attorneys for Plaintiffs

7
8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10 **SACRAMENTO DIVISION**

12 Dilevon Lo, Jerry Vang, Nathan Thao, Mao
13 Thao, Pao Lee, and Antonio Lee,

14 Plaintiffs,

15 v.

16 County of Siskiyou; Jeremiah LaRue and Jesus
Fernandez, in their official capacities as
17 members of the Siskiyou County Sheriff's
Department and in their individual capacities;
18 and Brandon Criss, Ed Valenzuela, Michael N.
Kobseff, Nancy Ogren, and Ray A. Haupt, in
19 their official capacities as members of the
Siskiyou County Board of Supervisors and in
20 their individual capacities; Edward Kiernan, in
his official capacity as County Counsel for
21 Siskiyou County and in his individual capacity;
and DOES 1-100,

22 Defendants.

Case No.:

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' APPLICATION FOR A
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. INTRODUCTION AND BACKGROUND 1

 A. Background of the Hmong People in Siskiyou County 1

 B. Hmong Life in Siskiyou County Today 4

II. JURISDICTION AND VENUE..... 6

III. STATEMENT OF FACTS 7

IV. ARGUMENT..... 16

 A. Legal Standard for Preliminary Injunction 16

 B. Plaintiffs Will Suffer Immediate, Permanent, and Irreparable Injury If They
 Are Not Granted Immediate Injunctive Relief. 18

 1. Irreparable Harm is Presumed Here Because Plaintiffs’ Constitutional
 Rights Have Been Threatened and Unduly Infringed Upon. 18

 2. The Declarations Filed by Plaintiffs and Witnesses Demonstrate
 “Irreparable Injury.” 19

 C. Plaintiffs are Likely to Succeed on the Merits Because of the Egregious Nature
 of the Constitutional Violations. 21

 1. The Laws Are Overbroad..... 22

 2. Violation of Right to Equal Protection of the Laws. 23

 3. Violation of Right to Due Process and Right to Be Free from Unreasonable
 Searches and Seizures. 27

 D. Both the Equities and the Public Interest Weight in Favor of Granting Plaintiffs
 Injunctive Relief..... 27

V. REQUEST FOR WAIVER FOR BOND..... 28

VI. REQUESTED RELIEF 30

VII. CONCLUSION..... 30

TABLE OF AUTHORITIES

Cases

1

2

3 *A.A. v. Needville Indep. School Dist,*

4 701 F. Supp. 2d 863 (S.D. Tex. 2009)..... 19

5 *Anderson Foreign Motors, Inc. v. New England Toyota Distributor, Inc,*

6 492 F. Supp. 1383 (D. Mass. 1980) 29

7 *Arc of California v. Douglas,*

8 757 F.3d 975 (9th Cir. 2014) 17

9 *Arce v. Douglas,*

10 793 F.3d 968, 976 (9th Cir. 2015) 17

11 *Barahona-Gomez v. Reno,*

12 167 F.3d 1228, 1237 (9th Cir. 1999) 29

13 *Bass v. Richardson,*

14 338 F. Supp. 478 (S.D.N.Y. 1971)..... 30

15 *Broadrick v. Oklahoma,*

16 413 U.S. 601, 615 (1973).....22

17 *California v. Tahoe Regional Planning Agency,*

18 766 F.2d 1319, 1325 (9th Cir. 1985) 29

19 *Clark v. City of Los Angeles,*

20 650 F.2d 1033, 1039 (9th Cir. 1981) 22

21 *Doctor John's, Inc. v. City of Sioux City,*

22 305 F. Supp. 2d 1022 (N.D. Iowa 2004)..... 29

23 *Donohue v. Mangano.,*

24 886 F. 2d 126 (E.D.N.Y. 2012)..... 19

25 *Drakes Bay Oyster Co. v. Jewell,*

26 747 F.3d 1073, 1092 (9th Cir. 2014).....17, 27

27 *Flynt Distrib. Co. v. Harvey,*

28 734 F.2d 1389, 1394 (9th Cir. 1984) 17

Ginorio v. Gomez,

301 F. Supp. 2d 122, 133-34 (S.D. Tex. 2009)..... 19

1 *Gomillion v. Lightfoot*,
 2 364 U.S. 339 (1960)..... 24

3 *Guinn v. United States*,
 4 238 U.S. 347 (1915)..... 24

5 *Hartford v. Hills*,
 6 408 F. Supp. 879 (D. Conn. 1975)..... 28

7 *Haynes v. Office of the AG*,
 8 298 F. Supp. 2d 1154 (D. Kan. 2003)..... 19

9 *Hunter v. Ann Arbor*,
 10 325 F. Supp. 847 (E.D. Mich. 1971)..... 29

11 *Inland Steel Co. v. United States*,
 12 306 U.S. 1534 (1939)..... 28

13 *Johnson v. Couturier*,
 14 572 F.3d 1067, 1083 (9th Cir. 2009) 17

15 *Lane v. Wilson*,
 16 307 U.S. 268 (1939)..... 24

17 *Ligotti v. Garofalo*,
 18 562 F. Supp. 2d 204 (D.N.H. 2008)..... 29

19 *Lujan v. Defenders of Wildlife*,
 20 504 U.S. 555 (1992)..... 7

21 *McClendon v. City of Albuquerque*,
 22 272 F. Supp. 2d 1250 (D.N.M. 2003)..... 19

23 *Melendres v. Arpaio*,
 24 695 F.3d 990, 1002 (9th Cir. 2012) 28

25 *Mich. Rehab. Clinic Inc., P.C. v. City of Detroit*,
 26 310 F. Supp. 2d 867 (E.D. Mich. 2004)..... 19

27 *Nken v. Holder*,
 28 556 U.S. 418, 435 (2009)..... 28

Sammartano v. First Judicial Court,
 303 F.3d 959 (9th Cir. 2002) 28

1 *Shell Offshore, Inc. v. Greenpeace, Inc.*
 2 709 F.3d 1281, 1289 (9th Cir. 2013).....17

3 *Stuhlberg Int'l Sales Co. v. John D. Brush & Co.*
 4 240 F.3d 832, 839 n.7 (9th Cir. 2001) 17

5 *Thornhill v. Alabama,*
 6 310 U.S. 88,97 (1940)..... 22

7 *Tsombanidis v. W. Haven Fire Dep't,*
 8 352 F.3d 565 (2nd Cir. 2003)..... 25

9 *Univ. of Tex. v. Camenisch,*
 10 451 U.S. 390, 395 (1981)..... 17

11 *Washington v. Davis,*
 12 426 U.S. 229, 242 (1976)..... 24

13 *Washington v. Seattle School Dist.,*
 14 458 U.S. 457, 467-74 (1982) 24

15 *Winter v. Natural Res. Def. Council,*
 16 118 U.S. 356 (1886).....16, 17

17 *Yick Wo v. Hopkins,*
 18 118 U.S. 356 (1886).....24

19 **Statutes and Ordinances**

20 Cal. Fish and Game Code § 1602 27

21 Cal. Fish and Game Code § 5650 27

22 Cal. Fish and Game Code § 5652 27

23 Cal. Health and Safety Code § 11358..... 26

24 Cal. Health and Safety Code § 25189..... 27

25 Cal. Penal Code § 374.8..... 27

26 Cal. Water Code § 1052..... 27

27 Cal. Water Code § 13260..... 27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Cal. Water Code § 13264 27

Cal. Water Code § 13272 27

Cal. Water Code § 13387 27

Siskiyou County Code § 3-4.1501 8

Siskiyou County Ordinance No. 20-13..... 7, 8, 9, 30

Siskiyou County Ordinance No. 21-07..... 8, 30

Siskiyou County Ordinance No. 21-08.....8, 14, 21, 25, 26, 30

Other Authorities

E.D. Cal. Civ. L.R. 230..... 29

Fed. R. of Civ. P. 65..... 29

1 **I. INTRODUCTION AND BACKGROUND**

2 Water is essential for life. In rural communities like Siskiyou County, California,
3 trucked-in well water is used for drinking, cooking, bathing, washing clothes and dishes, flushing
4 toilets, watering food crops, nourishing livestock, fighting fires, and conducting legitimate
5 business activities such as drilling more wells. In this case, Plaintiffs are being denied access to
6 water on the basis of their race and national origin, and they are seeking a temporary restraining
7 order and preliminary injunction in order to regain access to water desperately needed by their
8 community. Members of the Siskiyou County Board of Supervisors and Sheriff's Department
9 have engaged in a pattern of conduct intended to deprive members of the Hmong Community
10 access to water, thus making it difficult or impossible for them to live their lives. On August 4,
11 2020 and May 4, 2021, the Board of Supervisors approved new local laws severely restricting
12 access to water in areas of the County with large Hmong populations. The Board made it illegal
13 for any vehicle to transport over 100 gallons of water to Hmong communities, even though such
14 communities require hundreds of thousands of gallons of water per day for domestic purposes.
15 Representatives of the Sheriff's Department have been enforcing the new laws in a manner that
16 has had a disparate impact on the Hmong community, by detaining drivers attempting to deliver
17 water and impounding their vehicles. All Plaintiffs in this case identify as Hmong. Plaintiffs
18 Dilevon Lo, Pao Lee, Jerry Vang and Antonio Lee were all drivers or passengers of vehicles
19 seized by law enforcement carrying water. All individuals were left on the side of the road. No
20 contraband was found in any vehicle. Plaintiff Mao Thao was detained and given a court date,
21 but kept her vehicle, and Plaintiff Neil Thao has been detained so many times driving on the
22 roads listed in the Resolution he fears traveling on all public roads. *See* Declarations of Dilevon
23 Lee, Pao Lee, Jerry Vang, Antonio Lee, Mao Thao and Neil Thao. According to the United
24 States Census Bureau, Asians make up only 1.6% of the population of Siskiyou County.¹ This
25 minority group is being targeted by non-Asians in Siskiyou County in a manner that is creating a
26 humanitarian crisis.

27 _____
28 ¹ *See* Census record, attached as Exhibit E to Raza Lawrence's Declaration ("Lawrence Decl."), U.S. Census
Bureau, Quick Facts Siskiyou County (2019),
<https://www.census.gov/quickfacts/fact/table/siskiyoucountycalifornia/INC110219#qf-headnote-a>.

A. Background of the Hmong People in Siskiyou County

Plaintiffs are members of the Hmong tribe of Northern Laos who, either actively, or through parents and grandparents, performed as fighters for the United States when the U.S. government recruited the Hmong people in the late 1960s to fight the communists in Laos. When U.S. military forces left Southeast Asia in 1975, hundreds of thousands of Hmong were left to fend for themselves and their aid was cut off by the United States. Some escaped to refugee camps in Thailand by foot, while others lived in the jungle. In response to the plight of Indochinese communities such as the Hmong after the Vietnam War, the U.S. Congress enacted legislation to enable Southeast Asian refugees to come to the United States.²

The Hmong people limited United States casualties in the Vietnam War more than any other group of people. Men, women, and children as young as 10 years old were drafted by their leader to fight the Viet Cong and keep open Route 3 of the Ho Chi Minh trail at all costs, for the Americans.³

The war was considered secret because it was the first of many wars led by the CIA in foreign countries that was not congressionally approved.⁴ The Hmong fought, and the Americans, if slowly and spottily, allowed them to resettle in the United States. They came here for the ability to pursue the lifestyle they had before they fought for the Americans, basic freedom, and the pursuit of liberty and justice.

The Hmong people immigrated to various parts of the United States beginning in the early 1980s.⁵ Admissions picked up between 1987 and 1994, when more than 50,000 Hmong entered the country.⁶ From 2004 until 2006, pressure from human rights groups contributed to the resettlement to the United States of an additional 15,000 Hmong immigrants from a refugee

² See article attached as Exhibit F to Lawrence, Decl., *Hmong Timeline* | Minnesota Historical Society, MNHS, <https://www.mnhs.org/hmong/hmong-timeline>.

³ See *Brief Hmong History - Secret War*, YouTube (Feb. 23, 2014), <https://www.youtube.com/watch?v=Ij1ZAnHCOiQ>, screen shot attached as Exhibit I to Lawrence Decl.

⁴ See article attached as Exhibit T to Lawrence Decl., *How Nixon's Invasion of Cambodia Triggered a Check on Presidential Power*, <https://www.history.com/news/nixon-war-powers-act-vietnam-war-cambodia> https://www.history.com/topics/vietnam-war/vietnam-war-history#section_3.

⁵ See Exhibit F to Lawrence Decl.

⁶ *Id.*

1 camp in Thailand.⁷ Afterward, immigration from northern Laos to the United States slowed. By
2 early 2015, Hmong began arriving in the County of Siskiyou.⁸

3 More than a half-century ago, land speculators carved Siskiyou County's unbuildable
4 high desert and mountain slopes into half a dozen large subdivisions with "vacation" parcels that
5 had little market value. Mount Shasta Vista, rising along the western edge of the valley,
6 contained many of these "vacation" parcels which in 2014 remained fallow. By the end of 2016,
7 approximately one-third of the Mount Shasta Vista parcels were owned by the Hmong people.⁹

8 Many of the Vietnam veterans had an especially hard time adapting and learning English
9 because they came here later in life. These veterans struggled at getting employment while
10 settling in cities where they could not understand the language, and would have to have low
11 paying jobs.¹⁰

12 Of the Hmong soldiers that fought in place of American soldiers, 10,000 were killed, a
13 fatality rate 100 times higher than Americans fighters faced.¹¹

14 Implicit in the Hmong resettlement was the American promise that basic human rights
15 would be afforded to the Hmong. Under the Refugee Act, a host country must at least ensure
16 treatment towards refugees that is in conformance with basic human rights in accordance with
17 the standards set forth in the 1981 United Nations High Commissioner for Refugees (UNHCR)
18 Executive Committee Resolution.¹² Under the 32nd session of the Executive Committee,
19 refugees' rights were held to include: (1) enjoyment of "the fundamental civil rights
20 internationally recognized, in particular those set out in the Universal Declaration of Human
21 Rights," (2) receipt of all necessary assistance and provision of the basic necessities of life
22 including food, shelter and basic sanitary and health facilities, (3) treatment as persons whose

23 _____
⁷ *Id.*

24 ⁸ See article attached as Exhibit H to Lawrence Decl., *Hmong pot growers in Siskiyou County seeking identity, profit*
25 *— or both*, Los Angeles Times (Sept. 10, 2017), <https://www.latimes.com/local/california/la-me-hmong-marijuana-siskiyou-20170910-htmlstory.html>

26 ⁹ *Id.*

27 ¹⁰ See article attached as Exhibit J to Lawrence Decl., *New generation pushes Hmong mental health concerns into*
28 *the light*, Sahan Journal (Jan. 21, 2020) <https://sahanjournal.com/changing-the-narrative/new-generation-pushes-hmong-mental-health-concerns-into-the-light/>.

¹¹ See *Brief Hmong History - Secret War*, YouTube (Feb. 23, 2014),
<https://www.youtube.com/watch?v=Ij1ZAnHCOiQ> (screen shot attached as Exhibit I to Lawrence Decl.)

¹² Deborah E. Anker, *Discretionary Asylum: A Protection Remedy for Refugees Under the Refugee Act of 1980*, 28
Va. J. Int'l L. 1 (1987)

1 tragic plight requires special understanding and sympathy, and protection against cruel, inhuman
2 or degrading treatment, and (4) protection against discrimination on the grounds of race, religion,
3 political opinion, nationality, country of origin or physical incapacity.¹³

4 The right to access water is a basic human necessity. Water is required to sustain human
5 life, and the fact that the Hmong are being denied that right in Siskiyou County after the sacrifice
6 they have made for our country is unacceptable and a blight on this nation.

7 **B. Hmong Life in Siskiyou County Today**

8 Siskiyou County's recent water ordinances cannot be taken out of the context of Anti-
9 Asian American laws that have an unfortunate history in our country. From the opium laws of
10 the 1800s that also were de facto discrimination, to the California Supreme Court reinforcing a
11 1854 law ruling that people of Asian decent could not testify against a Caucasian person in court,
12 to the Japanese internment camps, to the circumstances that brought about the Anti-Asian
13 American Hate Crime Bill in May 2021, and now this ordinance along the same lines.

14 We as a nation are striving to reduce hate, racism, and bigotry. One noteworthy
15 progression is President Biden signing the COVID-19 Hate Crimes Act on May 20, 2021. This
16 bill addresses the enormous increase in hate crimes and unjustifiable violence against Asian
17 Americans. Due to a history of Asian-Americans facing discrimination, economic insecurity, and
18 language isolation, the main purpose of the bill is to make reporting hate crimes easily accessible
19 at the local and state level by encouraging public outreach and making available reporting
20 resources in multiple languages.¹⁴ Rep. Grace Meng, D-N.Y. accurately stated that the Asian
21 American community has been facing an "additional pandemic: the virus of hate and bigotry."¹⁵

22 Under the backdrop of this increasing Anti-Asian prejudice, the Hmong have experienced
23 the injustice of racism from their own local government. Instead of working towards the goal of
24 the Anti-Asian Hate Crimes Act, Siskiyou County has been working backwards.

25
26 ¹³ Conclusions Adopted by the Executive Committee on the International Protection of Refugees: 1975-2009
(Conclusion No. 1-109); 1981 (Executive Committee—32nd Session)

27 ¹⁴ See article attached as Exhibit K to Lawrence Decl., Here's What The New Hate Crimes Law Aims To Do As
Attacks on Asian Americans Rise, NPR (May 20, 2021) <https://www.npr.org/2021/05/20/998599775/biden-to-sign-the-covid-19-hate-crimes-bill-as-anti-asian-american-attacks-rise>

28 ¹⁵ See article attached as Exhibit L to Lawrence Decl., *COVID-19 Hate Crimes Act Passes Congress, Heads To Biden*, NPR (May, 18, 2021), <https://www.npr.org/2021/05/18/997847571/congress-passes-bill-to-counter-the-rise-in-anti-asian-hate-crimes>

1 The Siskiyou Sheriff's Department is raiding businesses that are selling water to Hmong
2 residents who have no other means of attaining such a resource.¹⁶ The Sheriff has begun to
3 recruit private citizens on Facebook to use "heavy equipment, such as dozers and excavators," to
4 go around the County to bulldoze and cause chaos.¹⁷ The Facebook page for the Siskiyou
5 Sheriff's Department has recently become a platform for Anti-Asian prejudice and aggression.
6 Day after day, the Sheriffs drive up and down a road outside the Hmong community, pulling
7 over anyone who appears to be carrying water.¹⁸ In the public meeting on May 4, 2021 regarding
8 the new water ordinances Plaintiffs seek to enjoin, Sheriff LaRue made various comments
9 detailed in the Statement of Facts below that could reasonably be interpreted as calls for
10 members of the community to take law enforcement and investigation into their own hands
11 against the local Hmong community in order to "choke" them out and drive them away from
12 Siskiyou County by denying them access to the water, and other goods and services, that they
13 need for their daily living.

14 In an article published May 26, 2021, by KDRV in Medford, Oregon, entitled "Siskiyou
15 County Water Ordinances Spark Claims Of Racial Profiling And Discrimination," Shasta Vista
16 landowner Russell Mathis stated, regarding Sheriff LaRue: "I think he's trying to, run everybody
17 off, kind of like they did in the early 1800s when they didn't like settlers — dam up the creek,
18 run them out. That's basically what I think he's doing here by drying up the water. Nobody can
19 survive. ... It's just, if you're Asian, you're connected to the community, you're connected. You're
20 guilty. End of the story," said Mr. Mathis. The same article discussed how local business owners
21 have said the Sheriff's public statements fanned the flames of racism, and business owners are
22 seeing community members racially profile Asian Americans in the community because the
23 Shasta Vista subdivision is known to have a large Asian American population. Local hardware
24 store employee Michael Parker, stated: "I feel we . . . we feel pressure, but I just don't want to
25

26 _____
27 ¹⁶ See article attached as Exhibit M to Lawrence Decl., *Asian pot growers face sheriff raids, bulldozers in Northern California. They blame racism*, Sacramento Bee (May 26, 2021)
<https://www.sacbee.com/news/california/article251586403.html>

28 ¹⁷ See Facebook page attached as Exhibit N to Lawrence Decl., Siskiyou County Sheriff's Office, FACEBOOK (May 21, 2021), <https://www.facebook.com/SiskiyouCountySheriff/>

¹⁸ See Exhibit M to Lawrence Decl.

1 judge people because they come in and they're of Asian descent.” “They're scared to come in. If
2 they go leave the parking lot, they get pulled over. If they have anything that has to do with their
3 business, even locals that don't grow are being pulled over,” said Parker. The article also
4 discussed how traffic stops have been a specific concern from some community members, with
5 some reporting that Asian Americans are being pulled over at disproportionate rates. “I think
6 they're profiling. We've seen some people get pulled over for no apparent reason that we're Asian
7 descent, you know, it seems like it is,” said Parker. The article also discussed community
8 members’ Anti-Asian (now-deleted) public responses to the Sheriff’s Facebook requests for help,
9 including from one person who stated: “We don’t need your kind in Siskiyou county. Go back to
10 your country.” and “She looks like she is from Asia. We don’t need their kind in Siskiyou.”

11 Another now-deleted comment on the Siskiyou Sheriff’s Facebook page stated “I’ve
12 heard they can technically be ‘burned out’ of there and it’s not illegal?” to which another person
13 responded “Not legally, that’s just our back up plan.”

14 Following Reconstruction, our nation experienced a terrifying wave of vigilante
15 lynchings of Black people by private citizens, which was too often ignored or even actively
16 encouraged by government officials. Echoing this tragic era of our nation’s history, many private
17 individuals in Siskiyou County have been taking the Sheriff’s public statements as invitations to
18 undertake vigilante justice against whoever they rightly or wrongly believe are involved in
19 unlawful cannabis cultivation, resulting in an entire community full of many law-abiding citizens
20 being persecuted and denied access to life-sustaining water.

21 **II. JURISDICTION AND VENUE**

22 This Court has subject matter jurisdiction in this action under federal question jurisdiction
23 (28 U.S.C. § 1331) because Plaintiffs have asserted claims under 42 U.S.C. § 1983 and the
24 Fourth and Fourteenth Amendments to the United States Constitution. Jurisdiction is further
25 based upon 28 U.S.C. § 1343, granting jurisdiction in cases to recover damages for injury to a
26 person or property because of the deprivation of any right or privilege of a citizen of the United
27 States. The claims alleged herein occurred in the County of Siskiyou. Venue of this action lies in
28

1 the United States District Court for the Eastern District of California, pursuant to 28 U.S.C. §
2 1391(b)(2).

3 The Plaintiffs in this case all have standing to bring these claims because, as set forth in
4 their declarations, they have suffered damages and violations of their constitutional rights as a
5 result of the enforcement of the water ordinances and resolution, and are likely to continue
6 suffering future harm and constitutional violations if the laws continue to be enforced. *See Lujan*
7 *v. Defenders of Wildlife*, 504 U.S. 555 (1992) (a plaintiff has standing to sue where the plaintiff
8 suffered an “injury in fact,” there is a causal connection between the injury and the conduct
9 brought before the court, and it is likely that a favorable decision by the court will redress the
10 injury).

11 **III. STATEMENT OF FACTS**

12 Plaintiffs are members of the Hmong community who were detained, searched, seized
13 and interrogated recently in Siskiyou County. Each Plaintiff was pulled over by law enforcement
14 on roads, or roads connected to roads, listed on the ordinance as prohibiting water trucks. No
15 contraband was found in any of the vehicles. Many Plaintiffs had their vehicles impounded and
16 have not obtained their vehicles to date. Some Plaintiffs received citations and court dates, while
17 others lost their vehicles with no citation or court date.

18 Plaintiffs are bringing this action against the Defendants, members of the Siskiyou
19 County Board of Supervisors, Sheriff’s Department, and County Counsel’s office to enjoin them
20 from enforcing three Ordinances and a resolution passed by the Board of Supervisors on August
21 4, 2020 and May 4, 2021. One ordinance is entitled “An Urgency Ordinance of the County of
22 Siskiyou Finding the Extraction and Discharge of Groundwater Within the County for Use in
23 Cultivating Cannabis in Violation of the County Code is an Unreasonable Use of, and Waste of,
24 the County’s Groundwater Resources and Prohibiting Same,” (“Ordinance 20-13”).¹⁹ The second
25 ordinance is entitled “ An Urgency Ordinance of the County of Siskiyou Adding Article 3.5 to
26 Chapter 13 of Title 3 of the Siskiyou County Code Regarding the Administrative Permit
27 Required for Use of Groundwater Off the Parcel From Which It Was Extracted and Clarifying
28

¹⁹ See Ordinance attached as Exhibit A to Lawrence Decl.

1 and Amending Section 3-13.601 of Said Chapter and Title Related to Fines,” (“Ordinance 21-
2 07”)²⁰ and a third ordinance is entitled. An Urgency Ordinance of the County of Siskiyou Adding
3 Article 15 to Chapter 4 of Title 3 of the Siskiyou County Code Relating to Water Trucks,”
4 (“Ordinance 21-08”) relates to prohibiting water trucks carrying 100 gallons or more from
5 “traveling over such streets and highways that the Board of Supervisors may specific by
6 resolution.”²¹ The resolution passed on May 4, 2021, is entitled “Resolution of the Board of
7 Supervisors of the County of Siskiyou Setting Forth Roads Included Within Siskiyou County
8 Code section 3-4.1501” (the “Resolution”) and specifies the “streets and highways” that the
9 Siskiyou Board of Supervisors agreed to ban water trucks from entering in the spirit of
10 “immediate preservation of the public peace, health or safety.”²² The specific streets and
11 highways listed on the Resolution are located near communities with large concentrations of
12 Hmong and other Asian people. *See* Declaration of Edward Szendrey.

13 This case is ripe for federal intervention and all three Ordinances should be enjoined so
14 people can survive, as each of the Ordinances is being used to deprive Hmong people of the
15 water they need for daily living.

16 The Siskiyou County Sheriffs are not only targeting the Hmong community themselves.
17 They are also recruiting members of the public to essentially serve as vigilantes to block supplies
18 from entering the Hmong community and to use their own heavy equipment to help tear down
19 Hmong greenhouses and other agricultural facilities that could potentially be used to grow
20 cannabis (lawfully or unlawfully), but could also be used to lawfully grow hemp and a variety of
21 food crops.

22 On August 4 2020, the Siskiyou County Board of Supervisors passed Ordinance 20-13,
23 the first of three ordinances cutting off the water supply to the Hmong community.²³ Ordinance
24 20-13 makes it illegal to “engage in the act of wasting or unreasonably using groundwater by
25 extracting and discharging groundwater underlying Siskiyou County for use in cultivating
26 cannabis in violation of Chapter 14 or Chapter 15 of Title 10 of the Siskiyou County Code.” One

27 _____
28 ²⁰ *See* Ordinance attached as Exhibit B to Lawrence Decl.

²¹ *See* Ordinance attached as Exhibit E to Lawrence Decl.

²² *See* Resolution attached as Exhibit D to Lawrence Decl.

²³ *See* Ordinance attached as Exhibit A to Lawrence Decl.

1 month later, the Griset family, who continued to allow the Hmong community and other
2 neighbors to use their private well after the ordinance passed, was sued by the county for
3 allegedly violating this ordinance.

4 Ordinance 20-13 does not specify how any farmer or well owner is expected to know
5 whether any particular extraction or discharge of groundwater by a third party is “for use in
6 cultivating cannabis.” One would not typically expect a third party purchasing water to announce
7 to the seller that the water would be used for an unlawful purpose. Given that thousands of
8 nearby Hmong people have relied upon Mr. Griset for basic water needs, with each using 100 or
9 more gallons of water per day for domestic purposes, and many owning animals and growing
10 food crops, Mr. Griset could not reasonably know which water extracted was for cannabis
11 cultivation versus any other reason. The law-abiding members of the Hmong community,
12 moreover, should not have their access to water cut off pursuant to Ordinance 20-13 because the
13 County falsely presumes that every single water extraction or discharge by a Hmong person is
14 for illegal purposes.

15 Ordinance 20-13 was enacted as an “urgency ordinance,” citing Government Code
16 Section 25123(d) which allows urgency ordinances, which are effective immediately, “for the
17 immediate preservation of the public, peace, health and safety.” Government Code Section
18 25123(d), however, states that an urgency ordinance must include a declaration of facts
19 constituting the urgency...” There is no urgency that would justify barring Mr. Griset from
20 providing water to the Hmong community, nor is there any declaration of the facts to support an
21 urgency. The “facts” listed in Ordinance 20-13 have no citations. For example, the Ordinance
22 states that “an estimated 3,000,000 gallons of water is being expended daily by illicit cannabis
23 producers” and cites Resolution 20-18. Yet, Resolution 20-18 contains no citation or foundation
24 for this extremely high number.

25 In September 2020, in case number SCCVCV 20-810, Siskiyou County attempted to shut
26 down the Griset family’s well, seeking a temporary restraining order and preliminary injunction
27 enjoining the Grisets from the “pumping, extracting, selling, distributing, transporting, and
28

1 discharging of groundwater from groundwater wells on their property.”²⁴ The Superior court
2 denied the County’s request, stating: “On its face, the moving party failed to make an affirmative
3 factual showing of the irreparable harm or immediate danger they would experience if their ex
4 parte application was not granted, or any other statutory basis for granting ex parte relief, rather
5 than setting the matter for a hearing on noticed motion. Therefore, the request for an ex parte
6 hearing is denied.”²⁵

7 The Superior Court denied the County’s application seeking to shut down the Griset
8 family’s well operations because the County failed to show irreparable harm, a fundamental
9 element of a TRO request. The County’s conduct of passing laws that cut off water to a
10 homesteading community and suing local farmers who provide water to their fellow man is
11 concerning. In essence, the county lawsuit was an attempt to cut off water to the Hmong by
12 cutting off the supplier.

13 At a public hearing on May 4, 2021, where the Siskiyou County Board of Supervisors
14 welcomed Sheriff Jeremiah LaRue to give comment on the additional urgency ordinances
15 adopted that day, and to “educate the board on why this would be effective and the previous
16 method isn’t,”²⁶ the Sheriff stated:

17 — “first off, I think it’s important that we direct our anger at the right people. Um, you
18 know, we have good people in this county that have agriculture. And we have people that
19 are abusing that. We know who they are, and frankly I’m perplexed that those individuals
20 are not shamed more by not only other people in the agg. um, world, but also the county.
21 Um, I know we talk a lot about that, but really, that’s... Those people, not just the
22 growers, are helping this be established. ... And so, I just hope everyone who’s listening
23 and involved in this room, later on that we, we focus on the people that are causing the
24 problems.”²⁷

25 — “And we’re going to aggressively enforce and fine to the
26 extreme that we can, um... Whatever we can do, we’re going to do.”²⁸

27 ²⁴ See Plaintiff’s Ex Parte Application for TRO and OSC Re: Preliminary Injunction, filed Sept. 29, 2020, attached
as Exhibit P to Lawrence Decl.

28 ²⁵ See Sept. 30, 2020 Order, attached as Exhibit Q to Lawrence Decl.

²⁶ See Transcript attached as Exhibit O-2 to Lawrence Decl., Transcript of May 4, 2021 BOS meeting, at 6:159-60

²⁷ See *Id.*, at 6:162-71.

²⁸ See *Id.*, at 6:189-90.

1 — “You know, this is not going to get done by just having the, the government show up
2 and save everybody. Historically, that has never happened. So, we need the cooperation
3 of our local people to help us get to the bottom of this, and really choke it out.”²⁹

4 — “Um, if people are going to do it right, um, well I'll say... They would have done it
5 right from the beginning. Um, it's 100% illegal, regardless of how great the community
6 thrives. It's still leg- illegal activity. Um, it's not wanted here. It's prohibited here. That's
7 just the rules. That's, that's the law. So, um, the argument that suddenly if we were to
8 legally permit everything, people would start complying. That never happens. Um,
9 because there is no incentive to comply, even if it's permitted. Um, so anyways. I digress,
10 digress on that, but the importance of this ordinance... Both of them, we haven't gotten to
11 the other one, it just another tool for us to choke out the, the water issue that's enabling
12 everything.”³⁰

13 — “So again, pressure. Where is the pressure? Why aren't these people called out? I think
14 that, uh, you know, I hear a lot of, ‘Why isn't the county doing anything?’ We are. But I
15 also throw it back to the community. Um, we have to take this together. And we have to
16 have support. And ... we all have to come together on this. It's not just the Sheriff's
17 Department or code, or the board, or the county. I mean, it's everybody. It's, it's the
18 entirety of us, so ... I just want to convey the seriousness of this, and that we're going to
19 go out and aggressively enforce it. That's what, that's what we do. If there's laws on the
20 books that we can use, it's not a matter that we don't want to do it. We just have to have
21 the right teeth.”³¹

22 Sheriff LaRue’s comments on May 4, 2021, were followed up by the Siskiyou Sheriff’s
23 Department’s public requests on its Facebook page to enlist citizen vigilantes in putting pressure
24 on the Hmong community, including:

25 On May 10, 2021, the Department posted a message “to educate the businesses in and
26 surrounding Siskiyou County and to seek assistance in helping the Siskiyou County Sheriff’s
27 Office and other County Departments in combating rampant, illegal commercial cannabis
28 activity in Siskiyou County. The elimination of the illegal activity and associated violent crime is
going to involve the whole community working together, and we ask the local businesses to help
contribute to the solution. In an effort to stop the proliferation of illegal commercial cannabis
activity in Siskiyou County, we request our local businesses stop delivering supplies and

²⁹ See *Id.*, at 7:204-07.

³⁰ See *Id.*, at 7:212-20.

³¹ See *Id.*, at 8:230-38

1 providing services to known illegal commercial cannabis sites in Siskiyou County.”³² This
2 message could reasonably be interpreted as suggesting that local businesses should refrain from
3 providing any services or products, even those necessary for basic sustenance of life, to people
4 who merely live near properties suspected of containing unlawful cannabis cultivation, and as
5 encouraging private citizens to trespass on other citizens’ properties and conduct their own
6 investigations and draw their own conclusions regarding whether any particular person seeking
7 products or services was involved in unlawful cannabis cultivation, versus lawful cultivation of
8 any other crops.

9 On May 21, 2021, the Department discussed how the Sheriffs had “demolished” various
10 greenhouses, which could be used for lawful or unlawful cultivation of cannabis, but also for
11 lawful hemp and food crop cultivation, and stated: “If you are interested in assisting in our future
12 operations, contact the Sheriff’s Office. We are looking for additional heavy equipment, such as
13 dozers and excavators, and trained operators to volunteer to assist in ongoing efforts to address
14 the illegal Commercial Cannabis Activity plaguing our county.”³³

15 The roads listed in the May 4, 2021 Resolution are the exact roads where the Hmong
16 community resides: Picard Road, Matthews Road, Redrock Road, Meiss Lake-Sam’s Neck
17 Road, Richardson Road, Meiss Lake Road, Dorris Tecnor Road, Sheep Mountain Road, County
18 Road A-12, Big Springs Road and Harry Cash Road. *See* Declaration of Edward Szendrey.
19 Plaintiffs in this case have consistently been pulled over by law enforcement on A-12 and Big
20 Springs Road between February 24, 2021 and May 11, 2021.

21 The Hmong community in the Shasta Vista Subdivision of Siskiyou County, California,
22 consists of 1,600 lots, the majority of which are occupied by Hmong families. The population of
23 the Hmong community in the subdivision is over 1,000 men, women, and children (out of 4,000
24 total Hmong people in Siskiyou County). *See* Declaration of Edward Szendrey.

25 When the Shasta Vista Subdivision was created, a water well was built to supply water to
26 the properties within the subdivision. That well is located on a nearby property along highway A-
27 12. At the time of creation of the subdivision, everyone intended that water from specific wells

28 _____
³² *See* Exhibit S to Lawrence Decl.

³³ *See* Exhibit N to Lawrence Decl.

1 was to provide for the residents of the subdivision. Accordingly, the residents of the Shasta Vista
2 subdivision understood that they had a right to this water for living needs. *See* Declarations of
3 Neil Thao and Vamntxawg Lee.

4 For the past several years, the residents of the subdivision have depended on the water
5 from local wells for survival. The water is provided to the residents by truck. In order to drill a
6 new well, the licensed driller must bring approximately 400 gallons of water to drill. Since the
7 passing of this ordinance, the two local drill companies have been out of business.

8 Cutting off the water to the subdivision has caused a humanitarian crisis. The 1,000-plus
9 Hmong people who are living in the subdivision depend on the water for personal survival, to be
10 used for food crops and for human and animal consumption. Without water, the residents will be
11 forced to move and lose their investment in their property.³⁴

12 According to United States Geological Survey (USGS) estimates, 23,300,000,000 gallons
13 of water per day are consumed for domestic use by 283,000,000 people, or approximately 82.3
14 gallons per person per day. Based on the USGS report the over 1,000 Hmong people living in the
15 Shasta Vista Subdivision require at least 82,300 gallons of water per day for personal
16 consumption. The USGS report indicates California consumption is higher than the average. In a
17 study conducted by the Hamilton Project, the daily domestic consumption of water is 124 gallons
18 of water per day per person. Based on the Hamilton Project, in California, 1,000 people would
19 require 124,000 gallons of water per day for personal consumption. The entire population of
20 4,000 Hmong people in Siskiyou County (most of whom live by the roads subject to the water
21 truck ban) would require 496,000 gallons of water per day -- i.e., 4,960 truckloads at the 100
22 gallon limit. *See* Declaration of Edward Szendrey.

23 The County of Siskiyou has not worked with the residents of the Shasta Vista
24 Subdivision to provide an alternate solution to this issue. During the public comment period at
25 the May 4, 2021, Board of Supervisors meeting when the Ordinance and Resolution were passed,
26 Paul Manasian, an attorney representing well owner Stephen Griset, who has historically
27 provided water to the Hmong community, proposed that the County have a meeting with the
28

³⁴ *See* Declarations of Neil Thao and Vamntwawg Lee.

1 Hmong community and farmers to discuss a solution to water issues, and explained that the
2 Hmong sites do not have their own water.³⁵ The County did not take the attorney up on his offer.
3 Also during the public comment period at the May 4, 2021, Board of Supervisors meeting when
4 the two Ordinances and Resolution were passed, a farmer from Scott Valley told the Board of
5 Supervisors that he uses water trucks all the time to transport water around the County for
6 various legitimate purposes, and explained that unforeseen consequences affecting the
7 “backbone of this county” would result from a water truck ban due to all the legitimate
8 agriculture going on in the County.³⁶

9 The day after the Ordinance was passed, a fire broke out in one of the subdivisions where
10 water trucks were specifically banned. The locals could not put the fire out and the local fire
11 department was delayed. Two houses burned down that were owned by a Vietnamese property
12 owner.³⁷

13 Notably, in a moment of candor, the Siskiyou County District Attorney has confirmed
14 that the purpose of the water truck ban has nothing to do with preserving or protecting the
15 aquifer, or groundwater. “We’re not pretending that this is something that’s trying to regulate
16 anything except for water being used for cannabis,” District Attorney Kirk Andrus said. “It’s a
17 way to enforce California’s and Siskiyou’s cannabis laws. That’s what it’s for. It is not designed
18 to protect the aquifer, or the groundwater.”³⁸

19 In its urgency ordinances, the Board of Supervisors purported to justify the ban on the
20 basis that there was a “drought” and that the water on the trucks was “depleting precious
21 groundwater ... resources and these losses jeopardize the lawful agricultural, recreational,
22 private and environmental use of water for thousands of residents.”³⁹ In contrast, the District
23 Attorney has admitted that the ordinance was not designed to address the stated reason for the
24 ban (protection of groundwater).⁴⁰

25 _____
26 ³⁵ See Transcript of May 4, 2021 Siskiyou County BOS meeting, attached as Exhibit O-1 to Lawrence Decl., at pp.
4:101-6:169.

27 ³⁶ See Transcript of May 4, 2021 Siskiyou County BOS meeting, attached as Exhibit O-1 to Lawrence Decl., at pp.
10:293-12:349.

28 ³⁷ See Declarations of Edward Szendrey and Suewasiengboom Saiaaron Lee.

³⁸ See Exhibit M to Lawrence Decl.

³⁹ See Ordinance No. 21-08, at pp. 1-2, attached as Exhibit C to Lawrence Decl.

⁴⁰ See Exhibit M to Lawrence Decl.

1 Given that enforcement of the Ordinances has been directed at a specific racial
2 community, and they were admittedly not enacted for their stated purpose of preserving
3 groundwater, the only reasonable inference is that the Ordinances were motivated by racism.
4 This inference is bolstered by a 2020 document written by Siskiyou County Undersheriff Karl G.
5 Houtman, entitled “Fiscal Year 2021 Annual Strategic Plan.”⁴¹ In Paragraph 1, A, under the
6 heading “Domestic Cannabis Intelligence Overview: Self-Assessment,” Karl G. Houtman wrote:
7 “We are dealing with all different ethnic groups (Hmong, Hispanic, Bulgarian, Caucasian and
8 Chinese) on private land and estimated “upwards of 2500 illegal marijuana cultivation site [sic.]
9 in Siskiyou County,” and that 80 of those cultivation sites (3.2% of the total) were located in the
10 Mount Shasta subdivision. *See* Declaration of Edward Szendrey.

11 Despite the cultivation of cannabis by members of all different races across the County,
12 Siskiyou County is targeting enforcement into a small area with large concentrations of Hmong
13 people. The roads where the water truck ban apply are used for the ingress and egress to parcels
14 occupied and/or owned predominately by the Hmong people of Siskiyou County, and thus the
15 enforcement of the Ordinance has had the effect of depriving the Plaintiffs (and the Hmong
16 people of Siskiyou County generally) of potable water.

17 Siskiyou County has mapped out the impact of areas affected by enforcement of the
18 Ordinance’s water truck ban. As reflected on the map (Exhibit C to investigator Ed Szendrey’s
19 declaration), there are six (6) large areas of Siskiyou County identified as Areas of Marijuana
20 Cultivation, identified in the 2021 Strategic Plan with large blue stars covering an area
21 encompassing from the north Highway 96 corridor bordered by the Pacific Coast Ranges to the
22 west to the Six Rivers National Forest to the south then along the Shasta Trinity National Forest
23 to the south-east to Tulelake in the north-east, thousands of square miles. The map also identifies
24 three (3) locations designated as “Areas affected by Water Ordinance” with large orange stars
25 covering only a small portion of the total area starting at locations adjacent to Shasta Vista, Mac
26 Doel and Dorris, an area that is exclusively in the north-eastern area of the map where the
27 Hmong people reside. Thus, it is clear from the County’s own materials that the County is well
28

⁴¹ *See* Fiscal Report attached as Exhibit B to Edward Szendrey Decl., *Fiscal Year 2021 Annual Strategic Plan*

1 aware of cannabis cultivation occurring throughout the County by all different ethnic groups, yet
2 has chosen to focus enforcement, by depriving communities of water, only in Hmong areas.

3 In contrast to its actions against the Hmong community, in mid-May 2021 the Board of
4 Supervisors expressed disappointment when Crystal Geyser Water Company pulled out from
5 opening its Mount Shasta water bottling facility that would deplete the water table by extracting
6 Siskiyou water from aquifers of volcanic tunnels and springs.⁴² District 2 Siskiyou County
7 Supervisor Ed Valenzuela, a Defendant in this case, lamented about losing the project: “It’s
8 unfortunate that an asset like (Crystal Geyser’s building) - which used to be a bottling plant -
9 could not get up and running despite a pretty lengthy process...it cost a lot of time and money, for
10 no gain.” This is consistent with the Siskiyou District Attorney’s statements made to reporters
11 this past week that the emergency sought to be addressed by the water truck ban has nothing to
12 do with water.

13 **IV. ARGUMENT**

14 **A. Legal Standard for Preliminary Injunction**

15 A temporary restraining order and preliminary injunction in this matter will send a clear
16 message to the community that the relief requested here is a positive step towards ultimately
17 protecting the ability to live and co-exist with other racial groups.

18 Injunctive relief is warranted and necessary under the Fourth and Fourteenth
19 Amendments of the U.S. Constitution, to protect Plaintiffs and the all the members of the Hmong
20 community in Siskiyou County, California, from being prevented from accessing the water they
21 need for drinking, food preparation, bathing, washing clothes and dishes, flushing toilets,
22 watering food crops, providing to livestock, fighting fires, and conducting legitimate business
23 activities. Plaintiffs meet all the requirements for injunctive relief because they are (1) likely to
24 succeed on the merits, (2) will suffer irreparable harm in the absence of preliminary relief, (3) the
25 balance of equities tips in their favor, and (4) an injunction is in the public interest. *Winter v.*
26

27 _____
28 ⁴² See Article attached as Exhibit R to Lawrence Decl., *Crystal Geyser pulls out of Mount Shasta
water bottling plant*, Mt. Shasta News, (May 17, 2021),
[https://www.mtshastanews.com/story/news/2021/05/17/crystal-geyser-water-company-pulls-out-mount-shasta-
plant/5133916001/](https://www.mtshastanews.com/story/news/2021/05/17/crystal-geyser-water-company-pulls-out-mount-shasta-plant/5133916001/)

1 *Natural Res. Def. Council*, 555 U.S. 7, 20 (2008); *Shell Offshore, Inc. v. Greenpeace, Inc.*, 709
2 F.3d 1281, 1289 (9th Cir. 2013).

3 The same factors apply to an application for a temporary restraining order, but a court
4 may grant a temporary restraining order when irreparable injury may occur before the hearing for
5 a preliminary injunction can be held. *Stuhlberg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d
6 832, 839 n.7 (9th Cir. 2001) (explaining that the Ninth Circuit's "analysis is substantially
7 identical for the injunction and the TRO"; *see also* FRCP 65(b) (allowing TRO to be granted
8 without notice). Here, seizures of water and water trucks used by the Hmong community will
9 continue and Plaintiffs' rights are in jeopardy absent this Court's intervention. Plaintiffs seek a
10 temporary restraining order in order to protect their constitutional rights pending a full hearing
11 on their motion for a preliminary injunction.

12 The Ninth Circuit "evaluate[s] these factors via a 'sliding scale approach,' such that
13 'serious questions going to the merits' and a balance of hardships that tips sharply towards the
14 plaintiff can support issuance of a preliminary injunction, so long as the plaintiff also shows that
15 there is a likelihood of irreparable injury and that the injunction is in the public interest." *Arc of*
16 *California v. Douglas*, 757 F.3d 975, 983 (9th Cir. 2014) (citations omitted).

17 The Court "must balance the competing claims of injury and must consider the effect on
18 each party of the granting or withholding of the requested relief." *Winter*, 555 U.S. at 24. Since
19 this case involves a government actor, the balance of equities factor merges with the fourth
20 factor, public interest. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014).

21 "Given the haste that is often necessary" when moving for injunctive relief, "a
22 preliminary injunction is customarily granted on the basis of procedures that are less formal and
23 evidence that is less complete than in a trial on the merits." *Univ. of Tex. v. Camenisch*, 451 U.S.
24 390, 395 (1981). For this reason, a "party is not required to prove her case in full on preliminary
25 injunction," *Arce v. Douglas*, 793 F.3d 968, 976 (9th Cir. 2015), and the "trial court may give
26 even inadmissible evidence some weight, when to do so serves the purpose of preventing
27 irreparable harm before trial." *Johnson v. Couturier*, 572 F.3d 1067, 1083 (9th Cir. 2009)
28 (quoting *Flynt Distrib. Co. v. Harvey*, 734 F.2d 1389, 1394 (9th Cir. 1984)).

1 As shown herein, Plaintiffs have presented substantial evidence (*See* Declarations filed
2 concurrently with this Application) that the challenged laws and their application and
3 enforcement violate the constitutional rights of law-abiding citizens and therefore Plaintiffs are
4 likely to prevail on the merits.

5 **B. Plaintiffs Will Suffer Immediate, Permanent, and Irreparable Injury If They Are**
6 **Not Granted Immediate Injunctive Relief.**

7 A temporary restraining order and preliminary injunctive relief are urgently needed and
8 well-justified to put an end to the unconstitutional and life-threatening practices at issue in this
9 case. Given the ongoing enforcement of the water laws and targeting of Hmong people in the
10 course of enforcement, and the Hmong people's need for water for basic life activities and public
11 safety, the issuance of a temporary restraining order and preliminary injunctive relief with regard
12 to Siskiyou County's water laws and their enforcement is well-warranted here.

13 In light of the potential for serious or even lethal harm resulting from continuing
14 enforcement of these water laws targeting the Hmong community, there is a clear possibility of
15 irreparable harm in the absence of injunctive relief. Ongoing enforcement of the laws at issue
16 will prevent members of the Hmong community from accessing water for their daily life and
17 safety needs, including drinking, food preparation, bathing, washing clothes and dishes, flushing
18 toilets, watering food crops, providing to livestock, fighting fires, and conducting legitimate
19 business activities, and is likely to drive many members of the Hmong community away from the
20 County. Two homes belonging to an Asian property owner burned down before fire trucks
21 arrived the day after the two May 4, 2021 laws passed, when the community members were
22 unable to fight the fire using water from water trucks. There is a grave concern that additional
23 properties will burn down if enforcement of the ordinance continues.

24 **1. Irreparable Harm is Presumed Here Because Plaintiffs' Constitutional**
25 **Rights Have Been Threatened and Unduly Infringed Upon.**

26 There is a presumption of irreparable harm whenever there is an alleged deprivation of
27 constitutional rights. Plaintiffs and other members of the Hmong community in Siskiyou County
28 have had their constitutional right to equal protection of the laws violated by being denied access

1 to water through the passage and enforcement of draconian, racially-targeted laws that apply
2 only in areas of the County with large Hmong populations. Plaintiffs and other members of the
3 Hmong community have been denied their right to be free from unreasonable searches and
4 seizures under the Fourth Amendment, by being subjected to a pattern and practice of being
5 stopped and detained for legally invalid reasons by members the Sheriff's Department and by
6 having their vehicles seized without due process of law. Further, future irreparable harm,
7 including lack of access to water for basic human, agricultural, and animal needs, and to fight
8 fires, and further harassment and discrimination, will likely result without this Court issuing a
9 preliminary injunction.

10 In the context of a motion for preliminary injunction, a finding of irreparable
11 injury is mandated when Plaintiffs allege that a constitutional right is being threatened or
12 impaired, no separate showing of irreparable harm is needed. Defendants cannot reasonably
13 assert that they are harmed in any legally cognizable sense by being enjoined from these
14 constitutional violations. *See, e.g., Mich. Rehab. Clinic Inc., P.C. v. City of Detroit*, 310 F. Supp.
15 2d 867 (E.D. Mich. 2004); *Donohue v. Mangano*, 886 F. 2d 126 (E.D.N.Y. 2012). *A.A. v.*
16 *Needville Indep. School Dist.*, 701 F. Supp. 2d 863 (S.D. Tex. 2009); *Ginorio v. Gomez*, 301 F.
17 Supp. 2d 122, 133-34 (S.D. Tex. 2009); *Haynes v. Office of the AG*, 298 F. Supp. 2d 1154 (D.
18 Kan. 2003); *McClendon v. City of Albuquerque*, 272 F. Supp. 2d 1250 (D.N.M. 2003).

19 As a result of unconstitutional laws and practices, innocent people are being hurt,
20 their vehicles have been unfairly impounded and people do not have access to water. These laws
21 and practices have sent a chill throughout the Hmong community. The harm caused by
22 Defendants' actions is immeasurable in light of the catastrophic devastation that enforcement of
23 the racially discriminatory water rules causes and the message of racial exclusion, which goes
24 against the values of the United States Constitution.

25 **2. The Declarations Filed by Plaintiffs and Witnesses Demonstrate**
26 **“Irreparable Injury.”**

27 Plaintiffs have submitted declarations establishing that cutting off the water to the Shasta
28 Vista Subdivision of Siskiyou County has caused a humanitarian crisis.

1 Set forth below are additional facts from Plaintiffs' declarations demonstrating that
2 failure to issue an injunction will lead to irreparable damage.

3 1. Plaintiff Dilevon Lo, age 23, was pulled over on May 4, 2021 on Highway A-12
4 in his family's vehicle. The vehicle was seized by law enforcement and Mr. Lo was left
5 on the side of a rural dirt road.

6 2. Plaintiff Jerry Vang, age 62, was pulled over on May 5, 2021 on Highway A-12
7 in a rental truck that was seized by law enforcement. Mr. Vang is being charged over
8 \$6,000.00 a month by the rental company for the impounded truck.

9 3. Plaintiff Nathan Thao, age 66, has been pulled over four times in the last six
10 months by the same law enforcement officer. Three out of the four times Mr. Thao was
11 pulled over on roads listed in the ordinance. Mr. Thao does not feel safe driving on public
12 roads.

13 4. Plaintiff Mao Thao, age 49, was pulled over on May 12, 2021 on Highway A-12
14 for "not looking right to left" at a stop sign. The officer demanded Ms. Thao open her car
15 door. Ms. Thao was given a citation and a court date of June 29, 2021.

16 5. Plaintiff Pao Lee, age 32, was the driver of a vehicle that was seized on May 14,
17 2021 on Highway A-12. The sheriffs that pulled Mr. Lee over searched his vehicle
18 without Mr. Lee's consent. The vehicle is still being held and Mr. Lee has not received a
19 response back from the county despite Mr. Lee contacting the county. After the vehicle
20 was seized, Mr. Lee received no citation and he was left on the side of a rural dirt road.

21 6. Plaintiff Antonio Lee, age 23, was the passenger in Pao Lee's vehicle that was
22 searched and seized on May 14, 2021 on Highway A-12. Mr. Lee was seized and
23 detained by law enforcement while the vehicle was searched and photographed. No
24 contraband was found. Mr. Lee was left on the side of a rural dirt road.

25 Five witnesses have suffered irreparable injury due to the passage of the Ordinances and request
26 not to be named for fear of retribution:

27 7. Witness John Doe I, age 45, was a passenger in a vehicle driven by his wife on
28 May 11, 2021 that was pulled over by law enforcement on Highway A-12. The officer

1 told John Doe I that he wanted to follow the couple back to their residence. The officer
2 seized the vehicle and left the couple on the side of the road.

3 8. Witness Jane Doe I, age 46, was the driver of a vehicle on May 11, 2021 that
4 was pulled over by law enforcement on Highway A-12. The officer told Jane Doe that he
5 wanted to follow her and her husband (John Doe I) to their residence. The officer seized
6 the vehicle and left the couple on the side of the road.

7 9. Witness John Doe II, age 67, was a passenger in a vehicle on May 21, 2021 that
8 was pulled over on Highway A-12. John Doe was ordered out of his car. John Doe gave
9 the officer his Fresno I.D card and the officer told John Doe to “go back to Fresno.” John
10 Doe took this as a threat from law enforcement to leave the area.

11 10. Witness Jane Doe II was the driver of a vehicle pulled over on May 11, 2021 on
12 Highway A12. Jane Doe showed the officer her Fresno I.D card and the officer told Jane
13 Doe to “go home.” Jane Doe took this as a threat from law enforcement to leave the area.

14 11. Witness John Doe III, age 46, after the Ordinances were passed, called the
15 county to inquire regarding the proper procedure to follow the “token program” to obtain
16 water through the county. He had not showered in several days due to the water ban and
17 his animals were suffering. After calling different county entities, John Doe III called the
18 county planning department and was yelled at and hung up on by a planning department
19 employee. He stopped calling.

20
21 **B. Plaintiffs are Likely to Succeed on the Merits Because of the Egregious
Nature of the Constitutional Violations.**

22 Plaintiffs Plaintiffs are highly likely to succeed on the merits of their claims. Ordinance
23 No. 21-08 and the Resolution are racist and discriminatory on their face, as they expressly target
24 Hmong areas for enforcement of water restrictions that do not apply anywhere else in the
25 County. The Siskiyou County Sheriffs, moreover, have been specifically targeting the Hmong
26 community, as opposed to people of other races and national origins, by pulling over Hmong
27 drivers for questionable or no legal reasons and seizing their vehicles and access to water without
28 due process. Passing laws that single out one race for harsher treatment and enforcing laws in a

1 racially discriminatory matter violate the United States Constitution’s prohibition of
2 discrimination based on race.

3 The Defendants’ acts at issue in this case substantially affected the rights and privileges
4 of Plaintiffs, members of a protected racial class. The racial discrimination at issue in this case
5 has deprived thousands of Hmong people of water needed for their day-to-day living and fighting
6 fires.

7 **1. The Laws Are Overbroad.**

8 Even if the Ordinances and Resolution had some theoretically legitimate purpose, they
9 are nevertheless unconstitutional because they are overbroad and needlessly intrude upon
10 constitutionally protected rights, including the First Amendment right to freedom of association,
11 the Fourth Amendment right to be free from unreasonable searches and seizures, and the
12 Fourteenth Amendment rights to equal protection of the laws and due process.

13 “The overbreadth doctrine holds that a law is void on its face if it sweeps within its ambit
14 not solely activity that is subject to governmental control, but also includes within its prohibition
15 the practice of a protected constitutional right.” *Clark v. City of Los Angeles*, 650 F.2d 1033,
16 1039 (9th Cir. 1981).

17 A law is overbroad if it “does not aim specifically at evils within the allowable area of
18 State control but, on the contrary, sweeps within its ambit other activities that in ordinary
19 circumstances constitute an exercise of [a fundamental right]” *Thornhill v. Alabama*, 310
20 U.S. 88, 97 (1940) (freedom of speech). The Supreme Court has required that the overbreadth
21 “not only be real, but substantial as well, judged in relation to the statute’s plainly legitimate
22 sweep.” *Broadrick v. Oklahoma*, 413 U.S. 601, 615 (1973).

23 By not considering other less intrusive and effective means to abate drought conditions
24 and/or illicit marijuana cultivation, all three Ordinances are overbroad and substantially
25 overburden the Hmong people of Siskiyou County in obtaining potable water, including the
26 Plaintiffs. The Ordinances and Resolution prevent the transportation of water *for any purpose* to
27 specific Hmong communities, and are not limited to any activities relating to cannabis
28 cultivation. The laws prohibit transporting water for human or animal consumption, watering

1 food crops, bathing, flushing toilets, washing dishes and clothes, and fighting fires. According to
2 the U.S. Environmental Protection Agency (EPA), a full bathtub requires about 70 gallons of
3 water. By limiting water transportation to no more than 100 gallons, when the Hmong
4 community requires hundreds of thousands of gallons of water for daily domestic use, the laws
5 have the practical effect of driving all Hmong people away from the community and making it
6 impossible to live there. This burden outweighs Defendants’ theoretical interests in drought
7 control (which the District Attorney conceded was not the purpose of the law) and preventing
8 misdemeanor cannabis cultivation.

9 **2. Violation of Right to Equal Protection of the Laws.**

10 The Fourteenth Amendment to the United States Constitution provides that “No State
11 shall make or enforce any law which shall abridge the privileges or immunities of citizens of the
12 United States; nor shall any State deprive any person of life, liberty, or property, without due
13 process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”
14 The Thirteenth, Fourteenth and Fifteenth Amendments, known as the Reconstruction
15 Amendments, give federal courts the authority to intervene when a state has threatened the
16 constitutional rights of its citizens. After the passage of these new racially-targeted water
17 Ordinances by the Siskiyou County Board of Supervisors, Asian- owned property has burned and
18 the Hmong people currently live without water. This is exactly the type of situation that the equal
19 protection clause of the Fourteenth Amendment is designed to prevent.
20 Ratified after the Civil War in 1868, the Equal Protection Clause was intended to stop states
21 from discriminating against Black people, but the text of the Clause is worded very broadly and
22 it protects members of all racial groups, and all other protected classes, against racial
23 discrimination by local and state governments. Discrimination by local governments on the basis
24 of race is presumptively unconstitutional, and is subject to a strict scrutiny level of judicial
25 review, where the discrimination must be narrowly tailored to meet a compelling governmental
26 interest, a standard that is very rarely met in practice.

a. Disparate Impact Violation

Title VI of the Civil Rights Act of 1964 recognizes that historically people have been excluded from participation in, and denied benefits and subjected to discrimination based on race, color or national origin. This is a devastating part of our American history. Denial of government benefits based on race fueled the passage of laws such as the Civil Rights Act of 1964 and 42 U.S.C § 1983. The disparate impact regulations were created to ensure that government funded programs are not racist or carried out in a racist design. This country has a long history of legalizing segregation up until the 1950s.

A classification that is ostensibly neutral but is an obvious pretext for racial discrimination or for discrimination on some other forbidden basis is subject to heightened scrutiny and ordinarily invalidation. *See, e.g., Yick Wo v. Hopkins*, 118 U.S. 356 (1886); *Guinn v. United States*, 238 U.S. 347 (1915); *Lane v. Wilson*, 307 U.S. 268 (1939); *Gomillion v. Lightfoot*, 364 U.S. 339 (1960). Government may make a racial classification that, for example, does not separate whites from blacks but that by focusing on an issue of racial import creates a classification that is suspect. *Washington v. Seattle School Dist.*, 458 U.S. 457, 467–74 (1982).

The Supreme Court has noted that “an invidious discriminatory purpose may often be inferred from the totality of the relevant facts, including the fact, if it be true, that the law bears more heavily on one race than another. It is also not infrequently true that the discriminatory impact . . . may for all practical purposes demonstrate unconstitutionality because in various circumstances the discrimination is very difficult to explain on nonracial grounds.” *Washington v. Davis*, 426 U.S. 229, 242 (1976).

Here, the laws criminalizing people traveling with over 100 gallons of water are clearly motivated by racial discrimination as, on their face, they apply only on certain roads near Hmong communities. If the laws were merely intended to prevent the wasting of water, or the use of water for any unlawful purposes, they would have applied County-wide, so that all people within the County who are similarly situated would be subject to the same rules and regulations. Notably, however, while the Ordinances claim that they are enacted in response to “drought” conditions and to avoid depleting groundwater and wells, the Siskiyou County District Attorney,

1 while speaking with the Sacramento Bee, admitted that the Ordinance was not designed to
2 address depletion of groundwater concerns.⁴³

3 The racism is also made clear by the fact that Sheriffs are stopping, searching, and
4 seizing the vehicles of members of the Hmong community pursuant to enforcement of this law at
5 a far greater rate than other, similarly situated members of other racial groups.

6 Courts have adopted a three-part test to determine whether a government policy or
7 practice violates Title VI disparate impact regulations. The court examines: (1) whether the
8 adverse effect of the policy or practice falls disproportionately on a race, color, or national origin
9 group, (2) whether the record establishes a substantial legitimate justification for the policy or
10 practice, and (3) if there exists an alternative that would achieve the same legitimate objective
11 but with less of a discriminatory effect. An investigation into the Siskiyou Ordinances as having
12 a disparate impact on the Hmong community serves as a vehicle to check and balance the county
13 policy that is fueled by taxpayer money.

14 **b. Establishing Adverse Disparate Impact**

15 In order to establish an adverse disparate impact, courts identify: (1) the specific policy or
16 practice at issue, (2) adversity/harm, (3) disparity and (4) causation. Here, Ordinance No. 21-08
17 forbids water trucks carrying over 100 gallons from specific roads mainly populated by the
18 Hmong community. The adverse impact suffered by the Hmong community is that they cannot
19 supply their homesteads with enough water to live. If there is a fire in any of the subdivisions
20 included within the listed roads on the Resolution, community water trucks will not be able to
21 put the fire out.

22 A disparity is established if the challenged practice adversely affects a significantly
23 higher proportion of protected class members than non-protected class members. *Tsombanidis v.*
24 *W. Haven Fire Dep't*, 352 F.3d 565 (2nd Cir. 2003). Exhibit C to investigator Ed Szendrey's
25 declaration shows that the ordinance banning water trucks is targeting exclusively the north-
26 eastern area of the map, where the Hmong community resides, instead of other farming
27 communities scattered throughout the map. But for the Ordinances, the Hmong community
28

⁴³ See Exhibit M to Lawrence Decl.

1 living in subdivisions off of A-12, Big Springs Road and the other nine roads listed in the
2 Resolution, would be able to cook, bathe and drink water. But for Ordinance 21-08 banning
3 water trucks carrying over 100 gallons of water on A-12 specifically, the May 5, 2021 fire would
4 likely have been extinguished before consuming two Vietnamese residences.

5 **c. No Legitimate Justification**

6 Neither the Siskiyou County ordinance banning water trucks, nor the accompanying
7 Resolution identifying specific roads, attempts to justify why the Hmong roads are being
8 targeted. Allegedly, the ban on water trucks on Hmong-populated roads is meant to conserve
9 water, in a state that has been facing drought since the 1980s. The District Attorney, however,
10 admitted to the media that the Ordinances were not in fact intended to address water shortages.
11 Other roads near farms and subdivisions not populated by the Hmong community are not listed
12 in the Ordinance.

13 It is evident from the county map attached as Exhibit C to investigator Ed Szendrey's
14 declaration that the water truck ban ordinance is targeting only a small portion of the known
15 farming areas throughout the County. No legitimate justification exists for prohibiting one race
16 from accessing water.

17 **d. Less Discriminatory Alternative**

18 If the County is concerned about water preservation a less discriminatory alternative
19 would be to establish rules for water usage that apply County-wide, and ensure that no
20 communities are denied access to water needed for basic living needs. Teaching and advertising
21 water conservation tactics directed towards farmers, homesteaders and local schools is another
22 solution.

23 Unlicensed cannabis cultivation occurs throughout the County and beyond the roads
24 listed in the Resolution. The Hmong communities are being singled out on the face of the County
25 Ordinance and similarly situated regions of the County are not. The only difference is race.
26 Many race-neutral criminal laws prohibiting unlicensed cannabis cultivation and addressing
27 water and environmental harms from cannabis cultivation exist, and could be enforced without
28 enacting a racially-targeted water truck ban. California Health and Safety Code § § 11358, and

1 25189.5 - 25189.7; Penal Code § 374.8; Fish and Game Code §§ 5650, 5652, and 1602; and
2 Water Code §§ 1052, 13260, 13264, 13272, and 13387 allow criminal charges in various
3 circumstances when cannabis cultivation involves illegal diversion of water or other adverse
4 environmental consequences. *See* Cal. Health and Safety Code § 11358(d). Siskiyou County also
5 has ordinances prohibiting the commercial cultivation of cannabis, and prohibiting waste and
6 unreasonable use of groundwater.

7
8 **3. Violation of Right to Due Process and Right to Be Free from Unreasonable
Searches and Seizures.**

9 In addition to succeeding on their claim for violation of their right to equal protection of
10 the laws, Plaintiffs are also likely to succeed on their claims that Defendants have violated their
11 right to due process under the Fourteenth Amendment and their right to be free from
12 unreasonable searches and seizures under the Fourth Amendment.

13 Through their passage and enforcement of these three Ordinances, Defendants have
14 conspired to participate in the unlawful detentions of Plaintiffs, and unlawful searches and
15 seizures of Plaintiffs, their vehicles, and their access to water, without due process of law, in
16 violation of the Fourth and Fourteenth Amendments. As set forth in the declarations
17 accompanying this motion, Siskiyou County Sheriffs have exhibited a pattern of pulling vehicles
18 over in Hmong communities for pretextual or no legitimate reasons, and detaining and searching
19 Hmong people, and seizing their vehicles, without probable cause of criminal activity. In
20 addition, as set forth in the Complaint filed in this case, Siskiyou County passed the Ordinances
21 and Resolution in this case in an irregular manner, ensuring that there would be little public
22 scrutiny or opportunity for public comment, which also violated Plaintiffs' due process rights.

23 If this Court does not order Defendants to cease their enforcement of the Ordinance, this
24 pattern of constitutional violations is highly likely to continue.

25
26 **D. Both the Equities and the Public Interest Weigh in Favor of Granting Plaintiffs
Injunctive Relief.**

27 Both the balance of hardships and the public interest weigh strongly in favor of injunctive
28 relief. Notably, when “the government is a party, these ... two factors merge.” *Drakes Bay Oyster*

1 *Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435
2 (2009)). In addition, “it is always in the public interest to prevent the violation of a party’s
3 constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting
4 *Sammartano v. First Judicial Court*, 303 F.3d 959 (9th Cir. 2002). Where, as here, Plaintiffs’
5 core constitutional rights are implicated, public interest weighs in favor of the issuance of a
6 preliminary injunction. In deciding whether to grant a preliminary injunction, the court may take
7 into account interests of the public, as well as those of the parties before it, and such
8 consideration is particularly appropriate in cases where there is strong public interest involved.
9 *Hartford v. Hills*, 408 F. Supp. 879 (D. Conn. 1975). It is the duty of the court of equity granting
10 injunctive relief to do so upon conditions that will protect all, including the public, whose
11 interests may be affected by an injunction. *Inland Steel Co. v. United States*, 306 U.S. 1534
12 (1939).

13 Defendants’ actions in targeting Hmong people with special draconian water laws and a
14 pattern of unlawful detentions, searches, and seizures, have created a chill throughout the Asian-
15 American community and made them feel unwelcome in Siskiyou County. This continued effort
16 by Defendants to intimidate the Asian residents in the county, and to seize their water and
17 vehicles, will make it difficult for the Asian residents to live in the community, and will likely
18 cause many Asian people to move away and other Asian people to avoid moving to the County.

19 Plaintiffs have suffered and will continue to suffer injury, if Defendants are not enjoined
20 from continuing to enforce these Ordinances and seize vehicles from the Hmong community in
21 Siskiyou County. Defendants, on the other hand, will not be able to demonstrate any danger of
22 harm should the requested relief be granted.

23 Thus, the balance of equities favors an award of preliminary injunctive relief in favor of
24 Plaintiffs, and an injunction is in the public interest.

25 **V. REQUEST FOR WAIVER FOR BOND**

26 Plaintiffs respectfully request this Court dispense with the requirement of a bond. This
27 matter presents an issue of public interest involving allegations of racial discrimination and
28 selective enforcement of the law; as well as serious infringements of Plaintiffs’ core

1 constitutional rights. The public interest, moreover, is extremely high in seeing that people have
2 access to water to meet the fundamental needs of living. In view of these facts, Plaintiffs request
3 that the bond requirement be waived; especially where the costs Defendants will suffer from the
4 issuance of the preliminary injunction are negligible if any.

5 Federal Rule of Civil Procedure 65(c) (E.D. Cal. Civ. L.R. 230) provides for the
6 imposition of a bond upon the applicant for a preliminary injunction “for the payment of such
7 costs and damages as may be incurred or suffered by any party who is found to have been
8 wrongfully enjoined or restrained.” The Court, however, is vested with discretion to determine
9 the amount of security required, if any. *Barahona-Gomez v. Reno*, 167 F.3d 1228, 1237 (9th Cir.
10 1999) (holding district court’s determination of bond amount was not subject to reversal by
11 appellate court unless there was a clear abuse of discretion). In specific instances, the Court may
12 dispense with the requirement of a bond “where requiring a security would effectively deny
13 access to judicial review.” *California v. Tahoe Regional Planning Agency*, 766 F.2d 1319, 1325
14 (9th Cir. 1985).

15 Many cases, moreover, have upheld the waiver of the bond requirement in analogous
16 circumstances. In *Doctor John’s, Inc. v. City of Sioux City*, the district court waived the bond
17 requirement of Federal Rule of Civil Procedure 65(c), finding that requiring issuance of a bond
18 before enjoining potentially unconstitutional conduct by a governmental entity was
19 inappropriate, as the First Amendment rights potentially impinged by the government’s actions
20 were of such gravity that protection of those rights should not be contingent upon an ability to
21 pay for a bond. *Doctor John’s, Inc. v. City of Sioux City*, 305 F. Supp. 2d 1022 (N.D. Iowa
22 2004); *see also Ligotti v. Garofalo*, 562 F. Supp. 2d 204 (D.N.H. 2008) (“[T]he court finds that
23 [the defendant] would suffer only negligible, if any, ‘costs or damages’ from the injunction. The
24 court therefore declines to require [the defendant] to post security.”); *Anderson Foreign Motors,*
25 *Inc. v. New England Toyota Distributor, Inc.*, 492 F. Supp. 1383 (D. Mass. 1980) (no bond
26 required of plaintiffs because of strong public interest and defendant city’s failure to show that it
27 will suffer more than negligible harm as a result of delaying highway project while
28 Environmental Impact Statement is prepared); *Hunter v. Ann Arbor*, 325 F. Supp. 847 (E.D.

1 Mich. 1971) (plaintiff not required to post bond or furnish security for issuance of injunctive
2 relief in view of the public nature of a question presented in a lawsuit to enforce city human
3 rights ordinance in effort to end discrimination); *Bass v. Richardson*, 338 F. Supp. 478 (S.D.N.Y.
4 1971) (no bond required for injunctive relief where public policy mandates that parties adversely
5 affected by improper administration of programs pursuant to federal statutes be strongly
6 encouraged to correct such errors, inasmuch as bond might discourage parties from correcting
7 serious or flagrant abuses).

8 Here, Defendants will not be able to identify any costs to them other than the attorney
9 fees that will be incurred to continue contesting this issue.

10 **VI. REQUESTED RELIEF**

11 Plaintiffs request the following injunctive relief to preserve their constitutional rights and
12 allow them access to water to meet their basic needs:

13 Defendants should be forbidden from enforcing the Ordinances passed by the Siskiyou
14 County Board of Supervisors on August 4, 2020, and May 4, 2021, one prohibiting water
15 extraction for unlawful cannabis cultivation (Ordinance 20-13) one prohibiting water trucks
16 carrying 100 gallons or more from traveling on certain roads designated by the Board of
17 Supervisors (Ordinance 21-08), and the other requiring a permit for extracting groundwater to be
18 used off-parcel (Ordinance 21-07); from continuing to hold any water trucks or other vehicles
19 seized from Plaintiffs or other members of the Hmong community in the course of enforcing
20 these two ordinances; from further harassing, intimidating, threatening, assaulting, or otherwise
21 interfering with Plaintiffs' right to purchase and extract water and transport it into their
22 community; and from initiating or pursuing civil or criminal litigation against well water
23 providers based on them providing water to community members.

24 **VII. CONCLUSION**

25 The six Plaintiffs listed represent thousands of Hmong community members that reside in
26 Siskiyou county who cannot step forward for fear of retribution. The Hmong people in Siskiyou
27 live in a state of despair and panic after sacrificing for this country on their native soil. The
28 Plaintiffs will suffer irreparable harm in the absence of preliminary relief. When the balance of

1 equities tips in favor of an injunction, as is this case here, the injunction should be granted.

2 Plaintiffs respectfully request that this Court make an Order for a temporary restraining order and
3 a preliminary injunction to enjoin Defendants from further violations of Plaintiffs' constitutional
4 rights and to ensure that Plaintiffs, and the entire Hmong community, have access to water
5 necessary to sustain their lives.

6
7
8 Dated: June 4, 2021

/s/ Allison B. Margolin

9 Allison B. Margolin (SBN 222370)
10 J. Raza Lawrence (SBN 233771)
11 Jennie W. Stepanian (SBN 289371)
12 Margolin & Lawrence, Attorneys at Law
13 8484 Wilshire Blvd., Ste. 440
14 Beverly Hills, CA 90211
15 Telephone: (323) 653-9700
16 Facsimile: (310) 919-0448
17 Attorneys for Plaintiff
18
19
20
21
22
23
24
25
26
27
28