

San Luis Obispo Superior Court
By: Karen McCormick
Karen McCormick, Deputy Clerk

1 DAN DOW (SBN: 237986)
2 District Attorney, County of San Luis Obispo
3 By: KENNETH J. JORGENSEN (SBN: 220887)
4 Deputy District Attorney
5 1035 Palm Street, Room 450
6 San Luis Obispo, CA 93408
7 Telephone (805) 781-5800
8 e-mail: kjorgensen@co.slo.ca.us
9 Attorneys for Plaintiff

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN LUIS OBISPO**

25CV-0013

11 THE PEOPLE OF THE STATE OF
12 CALIFORNIA,

COURT NO.

13 Plaintiff,

**COMPLAINT FOR UNFAIR
BUSINESS PRACTICES**

14 v.

15 INTREPID FINANCIAL, LLC, a corporation,
16 DARIN KRUSE, and
17 CAROLYN KRUSE,

(Bus. & Prof. Code, § 17200 et seq.; Fish
& Game §§ 1602, 1908, & 5650; &
County Code of San Luis Obispo Ch.
22.50; &)

18 Defendants.

Exempt from fees per Gov. Code, § 6103

19
20 Plaintiff, The People of the State of California, by and through Dan Dow, District
21 Attorney of the County of San Luis Obispo, State of California, is informed and believes and
22 based thereon alleges:

23 **I.**

24 **VENUE AND JURISDICTION**

25 1. Dan Dow, District Attorney for the County of San Luis Obispo, State of
26 California, brings this action in the public interest in the name of the People of the State of
27 California seeking to stop unlawful grading on property located near wetlands and within the
28 habitat area of a state-designated plant, the Pismo clarkia.

1 8. At all times mentioned herein, the Pismo clarkia plant has grown in the northern
2 portion of the Property, near and within the oak woodland. The Pismo clarkia is listed as a rare
3 plant under the California Endangered Species Act (CESA) and as endangered under the federal
4 Endangered Species Act (ESA).

5 9. The KRUSES have held an interest in the Property for approximately 30 years. In
6 the 1990s and 2000s, they were partners within a group seeking to develop a large residential
7 neighborhood on the Property. The development was subject to a CEQA court challenge,
8 resulting in changes to project, including the incorporation of a fenced-in 38.6 acre “Oak
9 Woodland and Pismo clarkia Preserve.” The project never materialized, stalling in 2011. By
10 2020, the partnership ended, and the KRUSES took sole control of the Property. (The KRUSES
11 are the controlling members of INTREPID FINANCIAL LLC.)

12 10. The KRUSES decided to develop the Property on a smaller scale than under the
13 previous partnership, with plans including several residences and commercial structures.

14 11. On December 17, 2020, Mr. KRUSE prepared and submitted a form for agricultural
15 grading exemption with the San Luis Obispo County Planning Department (“the County”). (A
16 grading exemption essentially seeks authorization from the County to grade real property without
17 undergoing a formal review by the County or other governmental agencies. The form itself is
18 designed to ensure the work does not need a more formal review. For the proposed work to
19 qualify, the grading project must be limited in scope, environmentally safe, and agriculturally
20 based.) The form submitted by Mr. KRUSE indicated the grading work would create a 13-acre
21 vineyard and maintain existing agricultural roads. As for environmental safeguards, the form
22 included prompts that would trigger a review process, including whether the grading would be
23 done near wetlands or within a rare/endangered species habitat. If checked, the form instructs the
24 applicant to contact DFW, USFWS, and Army Corps of Engineers for approval. Mr. KRUSE did
25 not check either of these two boxes despite the proposed grading was near wetlands and within
26 a known Pismo clarkia and oak woodland habitat.

27 12. On March 24, 2021, the County approved the ag grading exemption without formal
28 review. Shortly afterward, the KRUSES hired a botanist to survey the Property for the Pismo

1 clarkia as well as an engineer. They were tasked with preparing documentation to the County for
2 approval of a major grading permit to support a planned vineyard and commercial and residential
3 lots.

4 13. On May 28, 2021, the KRUSES’S botanist surveyed a portion of the Pismo clarkia
5 habitat area and located 550 Pismo clarkia plants adjacent to the potential lot developments.

6 14. After the Pismo clarkia survey, the KRUSES graded on the Property and performed
7 other ground disturbance activities near the potential lot developments, within the Pismo clarkia
8 habitat, and near the wetlands.

9 15. In September 2021, the KRUSES met with the County for a “Pre-application
10 meeting” to discuss the vineyard and commercial and residential lot development. Afterwards,
11 the County’s planners reviewed aerial photographs of the Property, which included the work
12 completed under the ag grading exemption.

13 16. In October 2021, the County determined the grading conducted under the ag
14 exemption application greatly exceeded its scope of work. The County also determined the
15 KRUSES omitted checking the boxes on the application that work was near wetlands and within
16 an endangered/threatened species habitat. The County concluded that had this information been
17 disclosed in the application, it would not have issued the Ag Grading exemption without
18 significant additional review.

19 17. In November 2021, the County contacted the California Department of Fish and
20 Wildlife (“CDFW”) and the United States Fish and Wildlife Service (“USFWS”).

21 18. In December 2021, USFWS wrote the first of three letters to the Defendants,
22 instructing Defendants to cease all development activities without first obtaining a permit to
23 protect the Pismo clarkia habitat.

24 19. In December 2021, CDFW issued the first of three Notice of Violations to the
25 Defendants for ground disturbance work on the Property that required a Lake and Stream Bed
26 Permit (LSAA) and an Incidental Take Permit (ITP).

27 //

28 //

1 IV.

2 **FIRST CAUSE OF ACTION**

3 **Fish and Game Sections 1602 and 1615**

4 **(Against all Defendants)**

5 20. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 19,
6 inclusive, as though fully set forth here.

7 21. Defendants violated California Fish and Game sections 1602 and 1615.1 by altering
8 streambeds and wetland area on the PROPERTY without obtaining a Lake and Streambed
9 Alteration Agreement with the California Department of fish and game.

10 22. Based on the above, the People request injunctive relief against Defendants, under
11 Fish & Game Code section 1602, and 1615, and civil penalties to be paid as described in the
12 People's prayer for relief.

13 **SECOND CAUSE OF ACTION**

14 **Fish and Game Sections 5650 and 5650.1**

15 **(Against all Defendants)**

16 23. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 22,
17 inclusive, as though fully set forth here.

18 24. Defendants violated California Fish and Game Code sections 5650 and 5650.1 by
19 using asphalt to control water flows within a streambed and causing excessive erosion.

20 25. Based on the above, the People request injunctive relief against Defendants, under
21 Fish & Game Code sections 5650, and 5650.1, and civil penalties to be paid as described in the
22 People's prayer for relief.

23 **THIRD CAUSE OF ACTION**

24 **San Luis Obispo County Code, §§ 22.52.050 & 22.52.070**

25 **(Against all Defendants)**

26 26. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 25,
27 inclusive, as though fully set forth here.

28 27. Defendants violated the San Luis Obispo County Code sections 22.52.050 &

1 22.52.070 when they graded roads, diverted streambeds, and installed multiple storage pads
2 without a grading permit and without first obtaining an Incidental Take Permit and Lake
3 Streambed Alteration Agreement from CDFW.

4 28. On April 17, 2023, Eric Hughes, on behalf of the San Luis Obispo County Planning
5 Director, issued a determination letter that Defendants' grading work on the Property did not
6 qualify as exempt grading, but required a grading permit, and that Defendants failed to obtain a
7 permit.

8 29. These violations of the County's code also constitute unlawful business practices
9 under the Unfair Competition Law, pursuant to Business and Professions Code sections 17200
10 and 17204.

11 30. Based on the above, the People request injunctive relief and civil penalties against
12 Defendants under San Luis Obispo County Code section 22.52.190 and Business and Professions
13 code section 17203 and 17206.

14 **FOURTH CAUSE OF ACTION**

15 **Business and Professions Code section 17200**

16 **(Against all Defendants)**

17 31. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 30,
18 inclusive, as though fully set forth here.

19 32. Defendants violated the Unfair Competition Law by unlawfully attempting to take
20 and by the unlawful take of the Pismo clarkia plant, a violation under California Fish and Game
21 Code § 1908 and Section 9(a)(2)(B) of the Endangered Species Act of 1973.

22 33. Based on the above, the People request injunctive relief against Defendants under
23 Business and Professions code section 17203 and civil penalties under section 17206.

24 **PRAYER**

25 WHEREFORE, plaintiff prays for judgment as follows:

26 1. For a permanent injunction, issued pursuant to Fish & Game Code sections 1615
27 and 5650.1, and Business and Professions Code § 17203 requiring Defendants DARIN and
28 CAROLYN KRUSE to comply with sections 1602 and 5650 of the Fish & Game Code;

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

2. Pursuant to Fish & Game Code section 1615 and Business and Professions Code section 17206, that all Defendants be ordered to pay civil penalties, as alleged in the First Cause of Action, according to proof;

3. Pursuant to Fish & Game Code section 5650.1 and Business and Professions Code section 17206, that all Defendants be ordered to pay civil penalties, as alleged in the Second Cause of Action, according to proof;

4. Pursuant to Section 22.52.190, subpart D(1) of the San Luis Obispo County Ordinance, that Defendants DARIN KRUSE and CAROLYN KRUSE be enjoined from grading and that all defendants be ordered to pay civil penalties, as alleged in the Third Cause of Action, according to proof;

5. Pursuant to sections 17203 and 17206 of the Business and Professions Code, that Defendants DARIN KRUSE and CAROLYN KRUSE be enjoined from violating section 1908 of the Fish and Game Code and that all Defendants be ordered to pay a civil penalty in an amount not to exceed \$2,500 for each violation of section 17200 of the Business and Professions Code as alleged in the Fourth Cause of Action, according to proof; and

6. That Plaintiff has such other and further relief as the nature of the case may require and the Court finds appropriate to dissipate the effects of the unlawful and unfair acts complained of herein.

Respectfully submitted,
DAN DOW
District Attorney

DATED: January 9, 2025

By *Kenneth Jorgensen*
KENNETH J. JORGENSEN
Deputy District Attorney