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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Tulare  
**09/12/2023**  
By: Nay Saelee,  
Deputy Clerk

10 Attorneys for: Petitioner SETTON PISTACHIO OF TERRA BELLA, INC.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF TULARE**

13 SETTON PISTACHIO OF TERRA BELLA,  
14 INC.,

15 Petitioner and Plaintiff,

16 v.

17 EASTERN TULE GROUNDWATER  
18 SUSTAINABILITY AGENCY

19 Respondent and Defendant.

Case No. VCU302028

**VERIFIED PETITION FOR WRIT OF  
MANDATE AND COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

20 Petitioner and Plaintiff Setton Pistachio of Terra Bella, Inc. (“Petitioner” or “Setton”)  
21 hereby submits its Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive  
22 Relief (the “Petition”), stating claims against Respondent and Defendant Eastern Tule Groundwater  
23 Sustainability Agency (“Respondent” or the “GSA”), as set forth below.

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1 **INTRODUCTION**

2 1. On March 21, 2023, Petitioner submitted a request (the “Request”) to Respondent  
3 pursuant to the Public Records Act, Government Code<sup>1</sup> section 7920.000 et seq. (the “PRA” or “Act”)  
4 seeking thirteen categories of records concerning Respondent’s groundwater recharge programs,  
5 calculation and allocation of groundwater recharge credits, surface water deliveries, and related topics.

6 2. Like most basins in the Central Valley, the Tule Subbasin is in a state of critical overdraft  
7 after decades of excessive groundwater extraction. Excessive groundwater extraction can cause a host  
8 of environmental and social problems, including failed wells, deteriorated water quality, and irreversible  
9 land subsidence that damages infrastructure and diminishes groundwater storage capacity in future  
10 years. To address this, in 2014 the Legislature enacted the Sustainable Groundwater Management Act,  
11 Water Code section 10720 et seq. (“SGMA”). SGMA required the formation of groundwater  
12 sustainability agencies (“GSAs”) and required GSAs to adopt groundwater sustainability plans (“GSPs”)  
13 specifying how sustainable groundwater management would be achieved by 2040. A critical component  
14 of sustainable groundwater management is groundwater recharge, which involves depositing surface  
15 water supplies into the ground to offset groundwater extractions. Through the PRA, Petitioner has  
16 merely sought basic information concerning Respondent’s compliance with SGMA and the applicable  
17 GSP. As a large grower and processor of pistachios within the GSA, Petitioner has a vested interest in  
18 understanding whether the Respondent is taking its obligations seriously.

19 3. Despite the obvious public interest attending the disclosure of records related to  
20 Respondent’s groundwater recharge activities, Respondent has stubbornly refused to comply with its  
21 obligations under the Act, declining to produce even a single record in response to the Request. Instead,  
22 Respondent has withheld an undisclosed number of records in their entirety based on specious  
23 interpretations of the Act’s disclosure exemptions, contrary to well-established case law and the express  
24 mandate of article I, section 3 of the California Constitution.

25 4. Over the course of approximately six months, Petitioner attempted to work cooperatively  
26 with Respondent to avoid unnecessary litigation. However, rather than engaging in a productive  
27 dialogue to facilitate the disclosure of public records, Respondent has repeatedly resorted to delay and  
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<sup>1</sup> Unless otherwise noted, all statutory references are to the Government Code.

1 obfuscation in derogation of its express statutory and constitutional duties. Accordingly, Petitioner was  
2 forced to file this suit, seeking a writ of mandate compelling Respondent to produce all responsive, non-  
3 exempt records in accordance with the Act, as well as related declaratory and injunctive relief.

4 **PARTIES, JURISDICTION, & VENUE**

5 5. Petitioner Setton Pistachio of Terra Bella, Inc. is, and at all times herein mentioned was,  
6 a California corporation. Petitioner is, and at all times herein mentioned was, a “person” within the  
7 meaning of section 7920.520 of the Government Code. Petitioner owns land within the GSA’s  
8 boundaries and has an interest in ensuring sustainable groundwater management. Petitioner has no  
9 direct financial interest in the outcome of this litigation.

10 6. Respondent Eastern Tule Groundwater Sustainability Agency is, and at all times herein  
11 mentioned is, a groundwater sustainability agency formed pursuant to the Sustainable Groundwater  
12 Management Act, Water Code section 10720 et seq. (“SGMA”). Respondent is a local agency within  
13 the meaning of section 7920.510 of the Government Code.

14 7. Petitioner has performed any and all conditions precedent to the filing of this Petition.

15 8. This Court has jurisdiction over this Petition pursuant to sections 1085 and 1087 of the  
16 Code of Civil Procedure, section 7923.000 of the Government Code, and sections 525 et seq. and 1060  
17 et seq. of the Code of Civil Procedure. Code of Civil Procedure section 1085 provides that a writ of  
18 mandate may be issued by any court to any inferior agency to compel the performance of an act which  
19 the law specifically enjoins. Code of Civil Procedure section 1087 provides that an alternative may be  
20 issued commanding a party immediately after the receipt of the writ to do the act required, or to show  
21 cause as to why they have not performed the act. Government Code section 7923.000 provides that any  
22 person may institute proceedings for injunctive or declarative relief in any court of competent  
23 jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of  
24 public records under the PRA. Code of Civil Procedure section 525 provides for an injunction when it  
25 appears that the plaintiff is entitled to the relief sought, and Code of Civil Procedure section 1060  
26 provides for a judicial declaration of a plaintiff’s rights and a defendant’s duties.

27 9. Venue in Tulare County Superior Court is proper pursuant to section 394 of the Code of  
28 Civil Procedure. Petitioner and Respondent are both situated within the County of Tulare, the records

1 at issue are maintained in the County of Tulare, and all occurrences giving rise to Petitioner’s claims  
2 occurred in the County of Tulare.

### 3 APPLICABLE LAW

4 10. Enacted in 1968, the California Public Records Act (the “PRA”) declares “access to  
5 information concerning the conduct of the people's business is a fundamental and necessary right of  
6 every person in this state.” (Govt. Code, § 7921.000.) In 2004, voters made this principle part of the  
7 California Constitution by approving Proposition 59, which provides in part: “The people have the right  
8 of access to information concerning the conduct of the people's business, and, therefore . . . the writings  
9 of public officials and agencies shall be open to public scrutiny.” (Cal. Const., art. I, § 3, subd. (b)(1).)

10 11. As the California Supreme Court has explained, “[p]ublic access laws serve a crucial  
11 function. Openness in government is essential to the functioning of a democracy. Implicit in the  
12 democratic process is the notion that government should be accountable for its actions. In order to verify  
13 accountability, individuals must have access to government files. Such access permits checks against  
14 the arbitrary exercise of official power and secrecy in the political process.” (*City of San Jose v. Superior*  
15 *Court* (2017) 2 Cal.5th 608, 615 [internal quotations omitted].)

16 12. The PRA establishes a basic rule requiring disclosure of public records upon request.  
17 (Govt. Code, § 7922.525.) Section 7922.525, subdivision (a) provides: “Public records are open to  
18 inspection at all times during the office hours of the state or local agency and every person has a right  
19 to inspect any public record, except as hereafter provided.” Subdivision (b) states: “Any reasonably  
20 segregable portion of a record shall be available for inspection by any person requesting the record after  
21 deletion of the portions that are exempted by law.” (*Id.* at subd. (b).)

22 13. The PRA thus “creates ‘a presumptive right of access to any record created or maintained  
23 by a public agency that relates in any way to the business of the public agency.’” (*City of San Jose*,  
24 *supra*, 2 Cal. 5th at 616 [quoting *Sander v. State Bar of California* (2013) 58 Cal.4th 300, 323].) “Every  
25 such record ‘must be disclosed unless a statutory exception is shown.’” (*Id.*) Accordingly, section  
26 7922.000 provides that “[a]n agency shall justify withholding any record by demonstrating that the  
27 record in question is exempt under express provisions of this division.”

1           14. Exemptions for particular records are set forth in Part 5 (section 7923.600 et seq.) and  
2 Part 6 (section 7930.000 et seq.). Additionally, section 7922.000 contains a catchall exemption  
3 authorizing an agency to withhold a record after “demonstrating . . . that on the facts of the particular  
4 case the public interest served by not disclosing the record clearly outweighs the public interest served  
5 by disclosure.” (Govt. Code, § 7922.000.)

6           15. Significantly, the California Constitution requires the PRA to be broadly construed to the  
7 extent it furthers the people’s right of access and narrowly constructed to the extent it limits the right of  
8 access. (Cal. Const., art. I, sec. 3, subd. (b)(2) [“A statute, court rule, or other authority . . . shall be  
9 broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right  
10 of access.”]; see also *Am. C.L. Union of N. California v. Superior Ct.* (2011) 202 Cal. App. 4th 55, 67  
11 n.2 [Proposition 59 “required the PRA to ‘be broadly construed if it furthers the people’s right of access,  
12 and narrowly construed if it limits the right of access’”].) Consequently, the PRA’s disclosure  
13 exemptions must be “narrowly construed,” (*Cnty. of Los Angeles v. Superior Ct. (Axelrad)* (2000) 82  
14 Cal.App.4th 819, 825), and other provisions must be interpreted broadly or narrowly as necessary to  
15 “further the people’s right of access.” (*Ardon v. City of Los Angeles* (2016) 62 Cal.4th 1176, 1191  
16 [“[The California Constitution] requires us either to broadly or to narrowly construe the Public Records  
17 Act, whichever way will further the people’s right of access.”].)

18           16. As the Supreme Court has repeatedly stated, “a public entity claiming an exemption must  
19 show that the requested information falls within the exemption” claimed. (*Ardon v. City of Los Angeles*  
20 (2016) 62 Cal.4th 1176, 1182; *Int’l Fed’n of Pro. & Tech. Engineers, Loc. 21, AFL-CIO v. Superior Ct.*  
21 (2007) 42 Cal. 4th 319, 329 [“The party seeking to withhold public records bears the burden of  
22 demonstrating that an exception applies.”]; see also *County of Santa Clara v. Superior Court* (2009) 170  
23 Cal.App.4th 1301, 1321 [the “agency opposing disclosure bears the burden of proving that an exemption  
24 applies”]; *Iloh v. Regents of University of California* (2023) 87 Cal.App.5th 513, 524; see Govt. Code,  
25 § 7922.000.) To satisfy its burden, an agency opposing disclosure must offer “more than vague  
26 suggestions and statutory references.” (*Getz v. Superior Ct.* (2021) 72 Cal. App. 5th 637.) Instead, the  
27 agency must provide “factual support” for each “essential element of the claimed basis for withholding  
28 information” and this information “must be specific enough to give the requester a meaningful

1 opportunity to contest the withholding of the documents.” (*Golden Door Properties, LLC v. Superior*  
2 *Court of San Diego County* (2020) 53 Cal.App.5th 733, 790 [internal quotations omitted].)

3 17. Additionally, the PRA “includes protections and incentives for members of the public to  
4 seek judicial enforcement of their right to inspect public records subject to disclosure, one of which is  
5 the provision that the court shall award court costs and reasonable attorney fees to the prevailing  
6 plaintiff.” (*Law Offices of Marc Grossman v. Victor Elementary School Dist.* (2015) 238 Cal.App.4th  
7 1010, 1013.) The “purpose of the attorney fees provision is to provide protections and incentives for  
8 members of the public to seek judicial enforcement of their right to inspect public records subject to  
9 disclosure.” (*Id.*) Thus, the PRA “mandates a fee award to a plaintiff if it prevails, and to a defendant  
10 only if the plaintiff’s case is clearly frivolous.” (*Id.*; see Govt. Code, § 7923.115, subd. (a).)

### 11 **FACTUAL BACKGROUND**

12 18. On March 21, 2023, Petitioner submitted a request for records (the “Request”) seeking  
13 thirteen categories of records from the Agency pursuant to the California Public Records Act,  
14 Government Code section 7920 et seq. (the “Act” or “PRA”). A true and correct copy of the request is  
15 attached here to as Exhibit “A.”

16 19. The Request reasonably described various identifiable records concerning the GSA’s  
17 groundwater recharge programs, the calculation and allocation of groundwater recharge credits,  
18 information concerning surface water deliveries, and other related practices. The Request asked the  
19 GSA to “consider each numbered request a *separate* request for records and provide an initial  
20 determination whether each numbered request seeks disclosable public records within ten days of receipt  
21 of this letter.”

22 20. On April 3, 2023, Petitioner received a letter from the GSA acknowledging receipt of the  
23 Request on March 30, 2023. A true and correct copy of the GSA’s March 31, 2023 letter is attached  
24 here to as Exhibit “B.” In the letter, the GSA advised that correspondence would follow on or before  
25 April 10, 2023.

26 21. On April 6, 2023, Petitioner received additional correspondence from the GSA. A true  
27 and correct copy of the Agency’s April 3, 2023 letter is attached here to as Exhibit “C.” With respect  
28 to Request Nos. 1, 2, 9, 10, and 11, the GSA stated that “the only nonexempt records ETGSA is able to

1 locate regarding surface water deliveries to lands within the ETGSA, including recharge and banking  
2 activities, are data in the ETGSA’s Annual Reports and [Groundwater Sustainability Plan (“GSP”).”  
3 The GSA then provided a hyperlink<sup>2</sup> to a page on the Department of Water Resource’s website  
4 containing the referenced records. The GSA further asserted that no responsive records were located  
5 with respect to Request Nos. 3, 8, 12, and 13 and that it had “located records of surface water deliveries  
6 for individual customers, but [wa]s withholding those documents pursuant to Water Code §10730.8 and  
7 Government Code §7927.410.” The GSA’s April 6, 2023 letter did not state whether responsive records  
8 had been located for Request Nos. 4, 5, 6, 7.

9         22. Government Code section 7927.410 (the “Utility Customer Exemption”) provides that  
10 nothing in the PRA “requires the disclosure of the name, credit history, utility usage data, home address,  
11 or telephone number of a utility customer of a local agency,” except in specified circumstances,  
12 including, as pertinent here, “[u]pon determination by the local agency that the utility customer who is  
13 the subject of the request has used utility services in a manner inconsistent with applicable local utility  
14 usage policies” and “[u]pon determination by the local agency that the public interest in disclosure of  
15 the information clearly outweighs the public interest in nondisclosure.”

16         23. Water code section 10730.8 (the “GSA Exemption”) provides that nothing in Chapter 8  
17 of SGMA, which relates to the financial authority of groundwater sustainability agencies, “shall affect  
18 or interfere with the authority of a groundwater sustainability agency to levy and collect taxes,  
19 assessments, charges, and tolls as otherwise provided by law” and that “[p]ersonal information included  
20 in a report or record pursuant to [Chapter 8 of SGMA] has the same protection from disclosure as is  
21 provided for information concerning utility customers of local agencies pursuant to Section 7927.410 of  
22 the Government Code.”

23         24. On June 22, 2023, Petitioner responded to the GSA’s April 6 letter, contending that the  
24 agency’s response violated the PRA because the agency had failed to properly invoke exemptions to  
25 disclosure, failed to demonstrate it was justified in withholding responsive records in their entirety  
26 pursuant to Government Code section 7927.410 or Water Code section 10730.8 section, and failed to  
27  
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<sup>2</sup> The hyperlink directed Petitioner to the following address: <https://sgma.water.ca.gov/portal/gspar/submitted>

1 segregate exempt information from non-exempt information. A true and correct copy of Petitioner’s  
2 June 22, 2023 letter is attached hereto as Exhibit “D.”

3 25. In the letter, Petitioner explained that “[o]n its face, Water Code section 10730.8 only  
4 applies to ‘[p]ersonal information.’” And that, where applicable, it “exempts from disclosure *only* the  
5 specific information enumerated in [section 7927.410]”—i.e., “name, credit history, utility usage data,  
6 home address, or telephone number.” Thus, “[i]t does not authorize the withholding of records in their  
7 entirety and it does not authorize the withholding of information other than the information specified.”  
8 Petitioner observed that it “seems unlikely that *all* records of surface water deliveries in the GSA’s  
9 possession contain ‘personal information’ so as to be covered by Water Code section 10730.8” and that  
10 the California Constitution requires both the GSA Exemption and the Utility Customer Exemption to be  
11 interpreted narrowly because they restrict the people’s right of access. (See Cal. Const., art. I, sec. 3,  
12 subd. (b)(2) [“A statute, court rule, or other authority, including those in effect on the effective date of  
13 this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly  
14 construed if it limits the right of access.”].) Therefore, “any non-personal information, such as business  
15 information or information from other local agencies, would not be subject to [the SGMA Exemption].”

16 26. On July 6, 2023, the GSA acknowledged receipt of the letter dated June 22. In the letter,  
17 the GSA stated that the GSA’s General Counsel was “on a pre-planned vacation” and would be out of  
18 the office until July 17, 2023, at which point she “will be happy to work cooperatively with [Petitioner]  
19 concerning the request.” A true and correct copy of the GSA’s July 6, 2023 letter is attached here to as  
20 Exhibit “E.”

21 27. Following an in-person conversation between one of Petitioner’s attorneys, Mr. John P.  
22 Kinsey, and the District’s General Counsel following her return from vacation, Petitioner’s counsel  
23 received an email on July 20, 2023 stating that, based on the in-person discussion between counsel, the  
24 District would “wait to hear back from [Setton] on steps moving forward with the latest CPRA demands  
25 from your office.”

26 28. The attorney handling the PRA request for Petitioner, Mr. Nicolas R. Cardella, responded  
27 on July 21, 2023, stating that the “most important thing” would be for the District to address the concerns  
28 stated in Petitioner’s June 22 letter regarding the assertion of exemptions and to “clarify[] whether, to



1 what extent, and on what basis, responsive records have been withheld.” As Mr. Cardella explained:  
2 “Once we know what records the [District] actually ha[s] in [its] possession we can discuss which items  
3 we want to focus on.”

4 29. The District’s General Counsel responded on July 27, 2023, stating that she “believe[d]  
5 [she] had a slightly different conversation with John” and reiterating that she would “wait to hear from  
6 you both prior to moving forward.” Mr. Cardella responded later that day, stating that he “believe[d]  
7 there must be some misunderstanding, as John and I spoke before I responded to you and were are in  
8 agreement with respect to the appropriate next steps.” Mr. Cardella then requested that the General  
9 Counsel “advise when we can expect to receive supplemental responses.”

10 30. The General Counsel responded shortly thereafter stating that she “had understood that  
11 we would be arranging a teleconference to discuss amongst [Ms. Maurtinson, Mr. Kinsey, and Mr.  
12 Cardella].” Mr. Cardella responded: “If you would like to arrange a teleconference, please provide your  
13 availability. We would be happy to discuss in real time and answer any questions you may have, but  
14 that will not change the need for clarification on exemptions.” The General Counsel replied moments  
15 later, stating: “It sounds like you are unwilling to share any additional concerns or details your client  
16 may have that prompted the requests in the first place. So be it. We will provide responses to your  
17 additional demands no later than August 11, 2023.”

18 31. A true and correct copy of the email correspondence commencing on July 20, 2023 is  
19 attached hereto as Exhibit “I.”

20 32. On August 11, 2023, Petitioner received another letter from the GSA stating that “there  
21 is still research that we need to perform concerning the scope of [the Utility Customer Exemption]” and  
22 that it’s counsel anticipated “concluding [its] research on the matter, and communicating our  
23 determination to [Petitioner], by August 25, 2023.” A true and correct copy of the GSA’s August 11,  
24 2023 letter is attached hereto as Exhibit “F.”

25 33. After more than two months of delay, the GSA finally provided a substantive response  
26 to Petitioner’s June 22, 2023 letter on August 25, 2023. A true and correct copy of the Agency’s August  
27 25, 2023 letter is attached hereto as Exhibit “G.” In the letter, the GSA disputed Petitioner’s contention  
28 that the GSA Exemption and Utility Customer Exemption were inapplicable. The GSA also asserted

1 that Assessor’s Parcel Numbers (“APNs”) were exempt pursuant to section 7922.000 (the “Catchall  
2 Exemption”), which provides that an agency may withhold a record “by demonstrating . . . that on the  
3 facts of the particular case the public interest served by not disclosing the record clearly outweighs the  
4 public interested served by disclosure of the record.”

5 34. According to the GSA, the Catchall Exemption applied to APNs because “disclosing an  
6 assessor’s parcel number corresponding to a customer’s utility usage data is tantamount to disclosing  
7 both the name and address of the customer” and thus disclosure of this information would have a “clear  
8 undermining effect.” The GSA did not identify the nature or object of this “clear undermining effect”  
9 nor did it provide any analysis regarding the public interest in favor of disclosure.

10 35. To date, there have been no further communications between the parties, and the Agency  
11 has yet to produce any records.

## 12 CAUSES OF ACTION

### 13 **FIRST CAUSE OF ACTION**

#### 14 **Writ of Mandate**

15 36. Petitioner realleges and incorporates by reference the preceding paragraphs 1 through 35  
16 in their entirety as though fully set forth herein.

17 37. *The GSA Violated the PRA by Failing to Determine Whether Responsive Records*  
18 *Existed for Request Nos. 4, 5, 6, and 7.* Section 7922.535, subdivision (a) of the PRA states: “Each  
19 agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine  
20 whether the request, in whole or in part, seeks copies of disclosable public records in the possession of  
21 the agency and shall promptly notify the person making the request of the determination and the reasons  
22 therefor. If the agency determines that the request seeks disclosable public records, the agency shall  
23 also state the estimated date and time when the records will be made available.”

24 38. The Request was received by the GSA on March 30, 2023 and asked the GSA to  
25 “consider each numbered request a *separate* request for records and provide an initial determination  
26 whether each numbered request seeks disclosable public records within ten days of receipt of this letter.”  
27 As pertinent here, Request Nos. 4, 5, 6, and 7 sought:  
28

- 1 4. All records provided by SID to ETGSA concerning groundwater  
2 pumping within SID between January 1, 2018, and the present.
- 3 5. All records, if any, concerning the calculation of groundwater  
4 recharge credits by PID between January 1, 2018, and the present.
- 5 6. All records, if any, concerning the allocation of groundwater  
6 recharge credits by PID between January 1, 2018, and the present.
- 7 7. All records, if any, concerning the calculation of groundwater  
8 recharge credits by SID between January 1, 2018, and the present.

9 39. The GSA's April 6 letter claimed that, other than the records on the Department of Water  
10 Resource's website for which a hyperlink was provided, no responsive, non-exempt records existed for  
11 Request Nos. 1, 2, 3, 8, 9, 10, 11, 12, and 13. However, neither the GSA's April 6, nor any of the GSA's  
12 subsequent correspondence, ever stated whether the GSA had searched for or located any records  
13 responsive to Request Nos. 4, 5, 6, or 7.

14 40. Accordingly, by failing to determine whether Request Nos. 4, 5, 6, and 7 sought copies  
15 of disclosable public records in the GSA's possession within 10 days of March 30, 2023, the GSA  
16 violated section 7922.535, subdivision (a) of the PRA.

17 41. ***The GSA Violated the PRA by Failing to Perform a Reasonable Search for Responsive***  
18 ***Records.*** An agency's search for public records must be "reasonably calculated to locate responsive  
19 documents." (*City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 627 [internal quotations  
20 omitted].)

21 42. The Request sought 13 distinct categories of records. However, other than referring  
22 Petitioner to documents maintained on the Department of Water Resources website, the GSA did not  
23 produce a single document. Furthermore, the only withheld records identified were "records of surface  
24 water deliveries for individual customers."

25 43. In light of the above, Petitioner is informed and believes, and on that basis alleges, that  
26 Respondent's search for records responsive to the Request was not reasonably calculated to locate  
27 responsive records, contrary to the requirements of the PRA.

28 44. ***The GSA Violated the PRA by Failing to Demonstrate that Withheld Records Were***  
***Entirely Exempt from Disclosure.*** Section 7922.525 provides that "[p]ublic records are open to  
inspection at all times during the office hours of a state or local agency and every person has a right to

1 inspect any public record, exempted as otherwise provided.” It provides further that “[a]ny reasonably  
2 segregable portion of a record shall be available for inspection by any person requesting the record after  
3 deletion of the portions that are exempted by law.” Pursuant to section 7922.000, “[a]n agency shall  
4 justify withholding any record by demonstrating that the record in question is exempt under express  
5 provisions of [the PRA], or that on the facts of the particular case the public interest served by not  
6 disclosing the record clearly outweighs the public interest served by disclosure of the record.” The  
7 California Constitution requires the PRA’s disclosure exemptions to be “narrowly construed,” (*Axelrad*,  
8 *supra*, 82 Cal.App.4th at 825), and the PRA’s other provisions to be construed broadly or narrowly as  
9 necessary to “further the people’s right of access.” (*Ardon, supra*, 62 Cal.4th at 1191; see Cal. Const.,  
10 art. I, sec. 3, subd. (b)(2).)

11 45. The GSA withheld an unknown number of records related to “surface water deliveries  
12 for individual customers” in their entirety. Initially, the GSA invoked the SGMA Exemption and the  
13 Utility Customer Exemption to justify its withholding of these records in their entirety. Later, the GSA  
14 added that the withholding of APNs was justified under the Catchall Exemption. No other exemptions  
15 were identified. However, neither the SGMA Exemption nor the Utility Customer Exemption can  
16 justify the GSA’s decision to withhold records related to “surface water deliveries for individual  
17 customers” in their entirety, and the GSA has failed to make an adequate showing to justify withholding  
18 any information pursuant to the Catchall Exemption.

19 46. **The SGMA Exemption.** The SGMA Exemption only applies to “[p]ersonal information  
20 included in a report or record pursuant to [Chapter 8 of SGMA]” and where applicable provides “the  
21 same protection from disclosure as is provided for information concerning utility customers of local  
22 agencies pursuant to [the Utility Customer Exemption].” (Wat. Code, § 10730.8, subd. (b).) Chapter 8  
23 of SGMA relates to the imposition of fees to cover the costs of groundwater sustainability programs and  
24 the costs of sustainable groundwater management. (See Govt. Code, § 10730 et seq.) The Utility  
25 Customer Exemption exempts “the disclosure of the name, credit history, utility usage data, home  
26 address, or telephone number of a utility customer of a local agency,” except in specified circumstances.  
27 (Govt. Code, § 7927.410.) Accordingly, the SGMA Exemption applies to (1) “[p]ersonal information,”  
28 (2) “included in a report or records” related to the imposition of fees for groundwater sustainability

1 activities and authorizes the withholding of one’s “name, credit history, utility usage data, home address,  
2 or telephone number.”

3 47. The GSA described the withheld records as records related to “surface water deliveries  
4 for individual customers.” Such records have no apparent connection to the imposition of fees pursuant  
5 to Chapter 8 of SGMA. Therefore, the SGMA Exemption is inapplicable. (See Cal. Const., art. I, sec.  
6 3, subd. (b)(2); *Am. C.L. Union of N. California, supra*, 202 Cal. App.4th at 67 n.2; *Axelrad, supra*, 82  
7 Cal.App.4th at 825; *Ardon, supra*, Cal.4th at 1191.) Accordingly, the GSA violated the PRA by failing  
8 to demonstrate that monthly statements for District landowners other than Setton were entirely exempt  
9 pursuant to the SGMA Exemption, or that redacted information was exempt pursuant to the SGMA  
10 Exemption, as required by section 7922.000.

11 48. Furthermore, even if the SGMA Exemption were applicable—and it is not—it would  
12 only justify the withholding of “[p]ersonal information.” (Wat. Code, § 10730.8, subd. (b).) However,  
13 the GSA’s correspondence implies that the SGMA Exemption was relied upon to justify the withholding  
14 of non-personal information, such as business names and addresses. Accordingly, to the extent the  
15 SGMA Exemption is applicable, and the GSA relied on it to withhold non-personal information,  
16 including, without limitation, business names and addresses, or documents in their entirety, the GSA  
17 violated the PRA by failing to demonstrate that such information was exempt from disclosure, as  
18 required by section 7922.000.

19 49. Finally, even if the SGMA Exemption were applicable, and the information withheld was  
20 limited to personal information only, it only authorizes the withholding of a person’s “name, credit  
21 history, utility usage data, home address, or telephone number.” (Govt. Code, § 7927.410.)  
22 Accordingly, to the extent the SGMA Exemption is applicable and the GSA relied on it to withhold any  
23 information other than a person’s name, credit history, utility usage data, home address, or telephone  
24 number,” or documents in their entirety, the GSA violated the PRA by failing to demonstrate that such  
25 information was exempt from disclosure, as required by section 7922.000.

26 50. **The Utility Customer Exemption.** The Utility Customer Exemption only authorizes  
27 the withholding of the “name, credit history, utility usage data, home address, or telephone number of a  
28 utility customer of a local agency.” (Govt. Code, § 7927.410.) However, the GSA is not a utility and

1 landowners in the GSA’s boundaries are not “utility customers” in relation to the GSA. Accordingly,  
2 the Utility Customer Exemption has no application to the GSA or the withheld records of surface water  
3 deliveries.

4 51. Furthermore, even if the Utility Customer Exemption were applicable—and it is not—it  
5 would only justify the withholding of the “name, credit history, utility usage data, home address, or  
6 telephone number of a utility customer.” (Govt. Code, § 7927.410.) However, the GSA’s  
7 correspondence implies that the Utility Customer Exemption was relied upon to justify the withholding  
8 of information other than the information expressly identified in section 7927.410—i.e., “name, credit  
9 history, utility usage data, home address, or telephone number.” Accordingly, to the extent the Utility  
10 Customer Exemption is applicable and the GSA relied on it to withhold information other than “name,  
11 credit history, utility usage data, home address, or telephone number,” the GSA violated the PRA by  
12 failing to demonstrate that such information was exempt from disclosure, as required by section  
13 7922.000.

14 52. **The Catchall Exemption.** The Catchall Exemption “allows a government agency to  
15 withhold records if it can demonstrate that, on the facts of a particular case, the public interest served by  
16 withholding the records clearly outweighs the public interest served by disclosure.” (*County of Santa*  
17 *Clara v. Superior Court* (2009) 170 Cal.App.4th 1301, 1321 [internal quotations omitted].) It  
18 “contemplates a case-by-case balancing process, with the burden of proof on the proponent of  
19 nondisclosure to demonstrate a clear overbalance on the side of confidentiality.” (*Ibid.*) “The agency  
20 opposing disclosure bears the burden of proving that an exemption applies.” To satisfy its burden, an  
21 agency opposing disclosure must offer “more than vague suggestions and statutory references.” (*Getz*,  
22 *supra*, 72 Cal. App. 5th at 654.) Instead, the agency must provide “factual support” for each “essential  
23 element of the claimed basis for withholding information” and this information “must be specific enough  
24 to give the requester a meaningful opportunity to contest the withholding of the documents.” (*Golden*  
25 *Door Properties, supra*, (2020) 53 Cal.App.5th at 790 [internal quotations omitted].)

26 53. The GSA invoked the Catchall Exemption to justify the withholding of APNs on the  
27 ground that “disclosing an assessor’s parcel number corresponding to a customer’s utility usage data is  
28 tantamount to disclosing both the name and address of the customer” and thus disclosure of this

1 information would have a “clear undermining effect.” At no point did the GSA identify the nature or  
2 object of this “clear undermining effect” or offer any analysis regarding the public interest in favor of  
3 disclosure.

4 54. “When it comes to disclosing a person's identity under CPRA, the public interest which  
5 must be weighed is the interest in whether such disclosure would contribute significantly to public  
6 understanding of government activities and serve the legislative purpose of shed[ding] light on an  
7 agency's performance of its statutory duties.” (*Los Angeles Unified School Dist. v. Superior Court*  
8 (2014) 228 Cal.App.4th 222, 241 [internal quotations omitted].) If a public interest is identified, the  
9 court “must then determine its weight.” (*Id.* at 242.) “[I]n assigning weight to the public interest in  
10 disclosure, courts must look not only to the nature of the information requested, but also how directly  
11 the disclosure of that information contributes to the public's understanding of government.” (*Ibid.*)  
12 “The motive of the particular requester in seeking public records is irrelevant” as is “the purpose for  
13 which the requested records are to be used.” (*Ibid.*)

14 55. The disclosure of APNs in a groundwater sustainability agency’s records is a matter of  
15 public interest. The extent of groundwater recharge occurring on individual parcels and the amount of  
16 groundwater recharge credits allocated to individual parcels by a GSA based on such activities  
17 contributes significantly to public understanding regarding sustainable groundwater management, and  
18 sheds light on a GSA’s performance of its statutory duties under SGMA and the applicable groundwater  
19 sustainability plan.

20 56. Moreover, it is a public interest with considerable weight. As the Legislature declared  
21 upon its adoption of SGMA, “[t]he people of the state have a primary interest in the protection,  
22 management, and reasonable beneficial use of the water resources of the state, both surface and  
23 underground” and “[i]nformation on the amount of groundwater extraction, natural and artificial  
24 recharge, and groundwater evaluations are critical for effective management of groundwater. (WATER  
25 SUPPLY—GROUNDWATER—CONSERVATION—LONG-TERM, 2014 Cal. Legis. Serv. Ch. 346  
26 (S.B. 1168) (WEST).)

27 57. The GSA’s vague assertion of a “clear undermining effect” arising from the disclosure  
28 of APNs in the requested records is devoid of any factual support whatsoever and utterly fails to





1 responsive records existed for Request Nos. 4, 5, 6, and 7; (b) failing to conduct a search for records  
2 responsive to the Request that was reasonably calculated to locate responsive records; (c) failing to  
3 demonstrate that withheld records were entirely exempt from disclosure; (d) improperly withholding  
4 records and information subject to disclosure; and (e) failing to segregate exempt information from non-  
5 exempt information. Petitioner is informed and believes, and on that basis alleges, that Respondent  
6 disputes each of the foregoing allegations and contends that it has fully complied with the PRA.

7 63. This controversy between Petitioner and Respondent creates a substantial danger that the  
8 public's right to access public records will be damaged and that the requirements of the PRA will be  
9 ignored. As such, a judicial determination as to the parties' rights and obligations with respect to the  
10 PRA is necessary and desirable.

11 64. Accordingly, Petitioner requests a judicial declaration that, in responding to the Request,  
12 Respondent failed to comply with the PRA by (a) failing to determine whether responsive records  
13 existed for Request Nos. 4, 5, 6, and 7; (b) failing to conduct a search for records responsive to the  
14 Request that was reasonably calculated to locate responsive records; (c) failing to demonstrate that  
15 withheld records were entirely exempt from disclosure; (d) improperly withholding records and  
16 information subject to disclosure; and (e) failing to segregate exempt information from non-exempt  
17 information. Petitioner is informed and believes, and on that basis alleges, that Respondent disputes  
18 each of the foregoing allegations and contends that it has fully complied with the PRA.

19 65. There is no other adequate legal remedy available to resolve this controversy.

### 20 **THIRD CAUSE OF ACTION**

#### 21 **Injunctive Relief**

22 66. Petitioner realleges and incorporate by reference the preceding paragraphs 1 through 59  
23 in their entirety as though fully set forth herein.

24 67. Unless and until this Court issues an order directing Respondent to comply with the PRA  
25 in connection with the Request, and to immediately produce all responsive, non-exempt public records  
26 subject to disclosure, Petitioner, and the public, will suffer irreparable harm as a result of Respondent's  
27 denial of their constitutional "right of access to information concerning the conduct of the people's  
28 business." (Cal. Const., art. I, § 3, subd. (b)(1).)



1 under control their control, to immediately produce all non-exempt public records responsive to the  
2 Request in accordance with the PRA.

3 5. For fees and costs available under the laws of California, including without limitation as  
4 authorized by Government Code section 7923.115 and Code of Civil Procedure section 1021.5.

5 6. That this Court retain continuing jurisdiction over this matter until such time as the Court  
6 has determined that Respondent has fully and properly complied with this Court's orders.

7 7. For such other and further relief as may be just and appropriate.

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Dated: September 11, 2023

**WANGER JONES HELSLEY PC**

By: \_\_\_\_\_

  
John P. Kinsey  
Nicolas R. Cardella  
Attorneys for Petitioner and Plaintiff

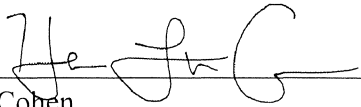
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**VERIFICATION**

I, Lee Cohen, have read the foregoing **Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief** and know the contents thereof. The same is true of my own knowledge, except as to those matter that are alleged therein on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 11th, 2023, at Terra Bella, California

  
\_\_\_\_\_  
Lee Cohen