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CITY OF TEHACHAPI

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF KERN

CITY OF TEHACHAPI,

Petitioner,

v.

TEHACHAPI-CUMMINGS COUNTY
WATER DISTRICT, a California water
district; and DOES 1 through 10, inclusive,

Respondents.

Case No. BCV-23-104134

PETITION FOR WRIT OF MANDATE

[Public Records Act, Gov't Code
§ 7920.000, *et seq.*]

[Exempt from filing fees pursuant to Govt. Code § 6103]

PETITION FOR WRIT OF MANDATE

Petitioner City of Tehachapi petitions this Court for a writ of mandate pursuant to Government Code section 7923.000 to enforce the City's rights under the California Public Records Act ("PRA") (Gov't Code § 7920.000, *et seq.*) and to request that the Court command Respondent Tehachapi-Cummings County Water District to produce public records as previously requested by the City, and alleges as follows:

INTRODUCTION

1. The City has filed this action to compel TCCWD to comply with its obligations under the PRA. More than two months after the City submitted its PRA request to TCCWD, TCCWD has yet to produce any documents or indicate when it will do so. Left with no other way to ensure that TCCWD complies with its obligations, the City brings this petition for writ of mandate.

PARTIES

2. Petitioner City of Tehachapi ("City") is a general law city governed by the laws of the State of California with all of the rights and duties thereunder. The City is located in the County of Kern.

3. Respondent Tehachapi-Cummings County Water District ("TCCWD") is a county water district organized and existing pursuant to California Water Code section 30000, *et seq.* and is the court-appointed Wastewatermaster for three adjudicated groundwater basins within its service area. TCCWD is located in the County of Kern.

4. TCCWD is a public agency as defined by Government Code section 7920.525 and is subject to the PRA.

5. The City is unaware of the true names and capacities of the Respondents sued as Does 1 through 10, inclusive, and therefore sues these Respondents by fictitious names. The City will amend this Petition to allege the true names and capacities of such persons or entities when they are ascertained.

6. The City is informed and believes, and on that basis alleges, that each of the fictitiously named Respondents is in some manner responsible for the actions complained of herein or which contributed to or are contributing to the injury suffered by the City.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this matter pursuant to Government Code section 7923.000.

8. Venue is proper in the Superior Court of the County of Kern pursuant to Code of Civil Procedure section 393 because the causes of action alleged herein arose in Kern County and Respondent TCCWD is located in Kern County.

FACTS GIVING RISE TO THE PETITION

9. On October 9, 2023, the City submitted to TCCWD a request for public records pursuant to the PRA. The City sought records in 19 discrete and specific categories. Pursuant to Government Code section 7922.570, the City requested that any record available in electronic format be provided in electronic format. The City further requested that, consistent with its obligations under Government Code section 7922.535, TCCWD provide its reply within 10 business days.

10. Nearly a month later, and well beyond the 10 business day response time required, on November 8, 2023, TCCWD provided a written response to the City. TCCWD's response acknowledged that it had determined that the City's request, "in part, seeks copies of disclosable public records in the possession of the District [TCCWD]."

11. TCCWD opined that the requests were "broadly worded and ambiguous" and provided a list of other purported bases for withholding documents, but stated that it was "undertaking efforts that are 'reasonably calculated to locate responsive documents.'"

12. TCCWD did not provide any proposed timeframe for production of any of its responsive documents.

13. On November 28, 2023, still not having received any documents, the City sent a letter to TCCWD. The City explained in detail that TCCWD's response failed to sufficiently address the City's requests, failed to provide an estimate as to when documents would be produced, and improperly asserted civil discovery objections. The City stated that based on TCCWD's response, the City understood that TCCWD did not intend to produce any documents to the City.

1 14. The City reminded TCCWD that it has a duty to assist a requesting party
2 “identify records and information that are responsive to the request or to the purpose of the
3 request” (Govt. Code § 7922.600(a)) and that TCCWD’s response made no effort to assist
4 in facilitating an agreeable production of records, including “[p]rovid[ing] suggestions to
5 overcoming any practical basis for denying access to the records or information sought.”
6 (Govt. Code § 7922.600(c).) The City suggested a telephonic or in-person meet and confer
7 to discuss.

8 15. The City closed by stating that if TCCWD did not respond “by the close of
9 business on December 1, 2023, we will assume TCCWD stands by your initial response and
10 no public records will be produced in response to City’s request – and without any guidance
11 from TCCWD to obtain the public records City is seeking. Unfortunately, if required to
12 seek legal recourse to compel production of these documents, [the] City will seek its costs
13 and reasonable attorney’s fees incurred in the process.”

14 16. On December 5, 2023, TCCWD advised that it was in receipt of the City’s
15 November 28, 2023 letter and was “preparing a formal response which we anticipate
16 forwarding this week.”

17 17. As of the morning on December 11, 2023, TCCWD has not provided any
18 further response, has not produced any documents, and has not indicated any timeframe for
19 doing so.

20 **FIRST CAUSE OF ACTION**

21 (Violation of the Public Records Act, California Gov’t Code § 7920.000, *et seq.*)

22 (Against All Respondents)

23 18. The City re-alleges paragraphs 1 through 17 above as though set forth in full
24 herein.

25 19. The PRA provides that “Except with respect to public records exempt from
26 disclosure by express provisions of law, each state or local agency, upon a request for a
27 copy of records that reasonably describes an identifiable record or records, shall make the
28 records promptly available to any person upon payment of fees covering direct costs of

1 duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided
2 unless impracticable to do so.” (Gov’t Code § 7922.530(a).)

3 20. The PRA further provides that “If the agency determines that the request
4 seeks disclosable public records, the agency shall also state the estimated date and time
5 when the records will be made available.” (Gov’t Code § 7922.535(a).)

6 21. The PRA also requires that a public agency “Assist the member of the public
7 to identify records and information that are responsive to the request or to the purpose of
8 the request, if stated” and “Provide suggestions for overcoming any practical basis for
9 denying access to the records or information sought.” (Gov’t Code § 7922.600(a)(1),
10 (a)(3).)

11 22. TCCWD has failed to produce public records in response to the City’s
12 October 9, 2023 PRA request.

13 23. TCCWD has failed to provide a timeframe for anticipated production of
14 public records in response to the City’s October 9, 2023 PRA request.

15 24. TCCWD has failed to comply with its obligations under Government Code
16 section 7922.600, to the extent that it believes further clarification is necessary to respond
17 to the City’s PRA request.

18 25. Although the City was not required to attempt to meet and confer prior to
19 filing this lawsuit, the City nonetheless attempted to do so and TCCWD failed to respond to
20 this request.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Petitioner City of Tehachapi respectfully prays for judgment as
23 follows:

24 1. For a peremptory writ of mandate under seal of this Court, and pursuant to
25 Government Code sections 7923.100 and 7923.110, commanding Respondent Tehachapi-
26 Cummings County Water District to immediately produce to the City all public records
27 responsive to the City’s October 9, 2023 Public Records Act request.
28

2. For an alternative writ of mandate under seal of this Court, and pursuant to Government Code section 7923.100, commanding Respondent Tehachapi-Cummings County Water District to show cause why the above writ of mandate should not issue as requested by Petitioner.

3. For reasonable attorneys' fees, pursuant to Government Code section 7923.115.

4. For costs of suit.

5. For such other and further relief as the Court deems just and proper.

Dated: December 11, 2023

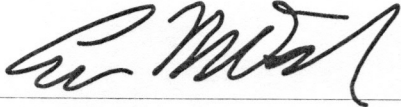
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[THIS PETITION IS DEEMED VERIFIED BY OPERATION OF LAW PURSUANT
TO CODE OF CIVIL PROCEDURE SECTION 446(a).]