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6 Attorney for the Prosecution Team

7 BEFORE THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

8
9 SAN DIEGO REGION

10 In the Matter of:)

11 **Administrative Civil Liability Complaints)**
No. R9-2010-0084 and No. R9-2010-0104)

AFFIDAVIT IN SUPPORT OF)
SUBPOENA FOR DOCUMENTS AND)
THINGS)

12 **Jack Eitzen)**
13 _____)

14 1. I, David Boyers, declare that I am a Supervising Staff Counsel III employed
15 by the State Water Resources Control Board, Office of Enforcement, and that I am
16 counsel for the Prosecution Team for the California Regional Water Quality Control
17 Board, San Diego Region ("Prosecution Team") in the above-entitled matters.

18 2. On or about April 18, 2011, the Prosecution Team received evidence from
19 Mr. Jack Eitzen in accordance with the Final Revised Hearing Procedures issued by the
20 Advisory Team for the California Regional Water Quality Control Board, San Diego
21 Region ("Advisory Team") on April 7, 2011.

22 3. The evidence submitted by Mr. Eitzen includes certain financial information
23 in support of Mr. Eitzen's contention that he is unable to pay the liability proposed in
24 Administrative Civil Liability Complaint No. R9-2010-0084 and Administrative Civil Liability
25 Complaint No. R9-2010-0104.

26 4. The Revised Final Hearing Procedures issued by the Advisory Team on
27 April 7, 2011 permit the Prosecution Team to submit rebuttal evidence in response to Mr.
28 Eitzen's evidence and argument.

1 5. On April 21, 2011, the Prosecution Team requested, and was granted, a
2 continuance of the hearings scheduled for May 11, 2011 in order to subpoena information
3 from Mr. Eitzen for the purpose of preparing rebuttal evidence and argument.

4 6. Good cause exists for the production of the documents described below
5 because such evidence is probative of Mr. Eitzen's claim that he is unable to pay the
6 liability proposed in Administrative Civil Liability Complaint No. R9-2010-0084 and
7 Administrative Civil Liability Complaint No. R9-2010-0104.

8 7. Mr. Eitzen has, or should have, the documents described below in his
9 possession or control.

10 8. The exact documents to be produced include:

11 a. All documents related to the sale or transfer by Mr. Eitzen of each of
12 the properties listed in Administrative Civil Liability Complaint No. R9-2010-0084 and
13 Administrative Civil Liability Complaint No. R9-2010-0104, and copied for reference in the
14 table below:

Assessor's Parcel Number	County	Property Address	Assessed Total Value	Assessment Year
082-281-037	San Luis Obispo	Great Falls Road	\$19,483	2009
082-121-008	San Luis Obispo	N/A	\$5,620	2009
082-201-068	San Luis Obispo	Dorris Road	\$17,991	2009
082-191-007	San Luis Obispo	11180 Crannel Trail	\$19,872	2008
082-211-005	San Luis Obispo	Grassland Road	\$25,000	2009
082-281-051	San Luis Obispo	Gleason Road	\$18,399	2009
082-201-033	San Luis Obispo	11320 Del Rosa Road	\$19,872	2009
083-461-004	San Luis Obispo	Arrowbear Trail	\$4,496	2009
082-291-076	San Luis Obispo	Greybriar Trail	\$19,483	2009
082-281-007	San Luis Obispo	Greybriar Trail	\$19,483	2009
083-451-041	San Luis Obispo	Lake Road	\$11,243	2009

1	082-211-006	San Luis Obispo	N/A	\$25,000	2009
2	082-181-044	San Luis Obispo	14155 Diamond	\$18,766	2008
3			Springs Road		
4	928-230-015	Riverside	38175 Via Vista	\$108,242	2008
5			Grande (check this	(value based	
6			on Westlaw)	on vacant lot	
7				prior to	
8				development)	
9	928-230-016	Riverside	38155 Via Vista	\$108,242	2008
10			Grande	(value based	
11				on vacant lot	
12				prior to	
13				development)	
14			TOTAL	\$441,192	
15					

16 b. All documents related to Mr. Eitzen's method of determining the value
17 (as shown by handwritten notation in Mr. Eitzen's evidence submittal) of the properties
18 listed in Administrative Civil Liability Complaint No. R9-2010-0084 and Administrative Civil
19 Liability Complaint No. R9-2010-0104, and copied for reference in the table above.

20 c. All documents describing assets held by Mr. Eitzen in the "Bellagio
21 Trust."

22 d. All documents related to the calculation or consideration of the value
23 of the asset labeled "Equipment," as shown in Mr. Eitzen's Statement of Net Worth.

24 e. All documents related to the calculation or consideration of the value
25 of the liability labeled "Citibank #998XXX," as shown in Mr. Eitzen's Statement of Net
26 Worth.

27 f. All documents related to the calculation or consideration of the value
28 of the liability labeled "Wells Fargo #XXXX3611," as shown in Mr. Eitzen's Statement of

1 Net Worth.

2 g. All documents related to the calculation or consideration of the value
3 of the liability labeled "Home Depot," as shown in Mr. Eitzen's Statement of Net Worth.

4 h. All documents related to the calculation or consideration of the value
5 of the liability labeled "Lowe's," as shown in Mr. Eitzen's Statement of Net Worth.

6 i. All documents related to the calculation or consideration of the value
7 of the liability labeled "FCC Financing on Equipment," as shown in Mr. Eitzen's Statement
8 of Net Worth.

9 j. All documents related to the calculation or consideration of the value
10 of the liability labeled "Riverside County Taxes," as shown in Mr. Eitzen's Statement of
11 Net Worth.

12 k. All documents related to the calculation or consideration of the value
13 of the liability labeled "Medical Bills," as shown in Mr. Eitzen's Statement of Net Worth.

14 l. All documents related to the calculation or consideration of the value
15 of the liability labeled "CMRE Financial Services #9405XXXX," as shown in Mr. Eitzen's
16 Statement of Net Worth.

17 m. All documents related to the calculation or consideration of the value
18 of the liability labeled "Midland Credit Management #8532824XXX," as shown in Mr.
19 Eitzen's Statement of Net Worth.

20 n. All documents related to the calculation or consideration of the value
21 of the liability labeled "Mr. Crummie Debt on Property in California Valley," as shown in
22 Mr. Eitzen's Statement of Net Worth.

23 o. All documents related to the calculation or consideration of the value
24 of the liability labeled "Jose Olivia," as shown in Mr. Eitzen's Statement of Net Worth.

25 p. All documents related to the calculation or consideration of the value
26 of the liability labeled "San Luis Obispo Tax Collector Default (coming due)," as shown in
27 Mr. Eitzen's Statement of Net Worth.

28 q. Mr. Eitzen's complete 2010 IRS income tax return and supporting

1 documentation.

2 r. Mr. Eitzen's complete 2007 IRS income tax return and supporting
3 documentation.

4 s. All documents relating to the calculation of the amount of -\$15,990
5 shown on line 12 of Mr. Eitzen's 2008 IRS Form 1040,

6 t. All documents relating to the calculation of the amount of -\$457,925
7 shown on line 21 of Mr. Eitzen's 2008 IRS Form 1040 (Statement 1 is not attached).

8 u. All documents relating to the calculation of the amount of \$2,400
9 shown on line 1 of Mr. Eitzen's 2008 IRS Form 1040, Schedule B, labeled "LOT SALES
10 INCOME."

11 v. All documents relating to the calculation of the amount of \$327,000
12 shown on line 1 of Part I of Mr. Eitzen's 2008 IRS Form 1040, Schedule C, for "LAND
13 DEVELOPMENT & SALES."

14 w. All documents relating to the calculation of the amount of \$315,027
15 shown on line 4 of Part I of Mr. Eitzen's 2008 IRS Form 1040, Schedule C, for "LAND
16 DEVELOPMENT & SALES."

17 x. All documents relating to the calculation of the amount of \$15,480
18 shown on line 13 of Part II of Mr. Eitzen's 2008 IRS Form 1040, Schedule C, for "LAND
19 DEVELOPMENT & SALES."

20 y. All documents relating to the calculation of the amount of -\$42,800
21 shown on line 27 of Part II of Mr. Eitzen's 2008 IRS Form, Schedule C, for "LAND
22 DEVELOPMENT & SALES" (Statement 2 is not attached).

23 z. All documents relating to the calculation of the amount of \$948
24 shown on line 13 of Part II of Mr. Eitzen's 2008 IRS Form 1040, Schedule C, for "JACK'S
25 CELLARS."

26 aa. Page 2 of Mr. Eitzen's 2008 IRS Form 1040, Schedule C, for "JC
27 PRODUCTIONS."

28 bb. All documents relating to the calculation of the amount of -\$47,567

1 shown on line 12 of Mr. Eitzen's 2009 IRS Form 1040.

2 cc. All documents relating to the calculation of the amount of -\$3,000
3 shown on line 13 of Mr. Eitzen's 2009 IRS Form 1040.

4 dd. All documents relating to the calculation of the amount of -\$473,915
5 shown on line 21 of Mr. Eitzen's 2009 IRS Form 1040.

6 ee. All documents relating to the calculation of the amount of \$55,070
7 shown on line 1 of Part I of Mr. Eitzen's 2009 IRS Form 1040, Schedule C, for "LAND
8 DEVELOPMENT & SALES."

9 ff. All documents relating to the calculation of the amount of \$50,103
10 shown on line 4 of Part I of Mr. Eitzen's 2009 IRS Form 1040, Schedule C, for "LAND
11 DEVELOPMENT & SALES."

12 gg. All documents relating to the calculation of the amount of \$4,233
13 shown on line 13 of Part II of Mr. Eitzen's 2009 IRS Form 1040, Schedule C, for "LAND
14 DEVELOPMENT & SALES."

15 hh. All documents relating to the calculation of the amount of \$13,201
16 shown on line 27 of Part II of Mr. Eitzen's 2009 IRS Form 1040, Schedule C, for "LAND
17 DEVELOPMENT & SALES" (Statement 2 is not attached).

18
19
20 I declare under penalty of perjury that the foregoing is true and correct.

21
22 David Boyers
23 David Boyers
24 Attorney for the Prosecution Team

Date: May 5, 2011

PROOF OF SERVICE OF SUBPOENA

(Gov. Code, § 11440.20; Code Civ. Proc., §§ 1987, 1987.5, 1988, 1989, 2015.3, 2015.5.)

1. I served this subpoena subpoena duces tecum and supporting affidavit by:

personally delivering a copy to the person served as follows:

a. Person served (name):	b. Date of delivery:
c. Address where served:	d. Time of delivery:
e. Witness fees and mileage both ways (check one): (1) <input type="checkbox"/> were paid. Amount: \$ _____ (2) <input type="checkbox"/> were not paid. (3) <input type="checkbox"/> were tendered to the witness's public entity employer as required by Government Code § 68097.2. The amount tendered was \$ _____	f. Fees for service. Amount: \$ _____

- delivering true copies thereof by certified mail, return receipt requested, to the address as shown below.
- delivering true copies thereof enclosed in a sealed envelope to a messenger for immediate personal delivery to the address as shown below.

Address where served: Mr. Paul Cliff, Esq. Lobb & Cliff, LLP, 1325 Spruce Street, Suite 300, Riverside, California 92507

2. I certify that I received this subpoena subpoena duces tecum for service on May 5, 2011 Date

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on:

Date	at (place)	Signature
<u>May 5, 2011</u>	<u>Sacramento</u> , California	<u>Dana Bayn</u>

(For California sheriff, marshal, or constable use only)
I certify that the foregoing is true and correct and that this certificate is executed on:

Date	at (place)	Signature

NOTE: IF THIS SUBPOENA IS ISSUED IN CONNECTION WITH A HEARING IN AN ADJUDICATIVE PROCEEDING UNDER GOVERNMENT CODE § 11400 ET SEQ., THE ATTORNEY OR PARTY WITHOUT AN ATTORNEY REQUESTING THIS SUBPOENA MUST PROVIDE A COPY OF THE SUBPOENA TO EVERY PARTY IN THE HEARING, AND FILE A COPY WITH THE STATE WATER RESOURCES CONTROL BOARD. THE COPY PROVIDED TO THE STATE WATER RESOURCES CONTROL BOARD MUST BE ACCOMPANIED BY A CERTIFICATE OF SERVICE LISTING THE NAMES AND ADDRESSES OF PARTIES WHO WERE PROVIDED COPIES IN ACCORDANCE WITH GOVERNMENT CODE § 11440.20. (Gov. Code, § 11440.20; Cal. Code Regs., tit. 23, § 648.4(c).) (Send to: The State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100.)

ENDORSEMENT ON SUBPOENA IN A PROCEEDING OTHER THAN AN ADJUDICATIVE PROCEEDING

Pursuant to Water Code §1086 and upon affidavit of _____ (copy attached) showing that the testimony of the witness ordered by the subpoena to appear is material and necessary to this proceeding, it is required that said witness attend this proceeding.

Dated: _____ (signature)

Name: _____

Title: _____
State Water Resources Control Board

NOTE: This ENDORSEMENT is required if the subpoena is in connection with a proceeding other than a hearing under Government Code § 11400 and the witness is being compelled to testify at a location that is both out of the witness's county of residence and 150 miles or more from the witness's place of residence. (Wat. Code, § 1086; Cal. Code Regs., tit. 23, § 649.6(c).)