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11 *Attorneys for Plaintiff*

12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
13 **IN AND FOR THE COUNTY OF MARICOPA**

14 SIERRA CLUB, a California non-profit
15 corporation,

16 Plaintiff,

17 vs.

18 SALT RIVER PROJECT AGRICULTURAL
19 IMPROVEMENT AND POWER
20 DISTRICT, a political subdivision of the
21 State of Arizona,

22 Defendant.

Case No.

CV 2022-006914

**COMPLAINT FOR STATUTORY
SPECIAL ACTION TO SECURE
RIGHT TO INSPECT PUBLIC
RECORDS**

23 Plaintiff Sierra Club makes the following allegations against Defendant Salt
24 River Project Agricultural Improvement and Power District (“SRP”).

25 **INTRODUCTION**

26 1. This is a statutory special action to secure the unconditional right to
27 inspect copies of “public records and other matters,” *see* A.R.S. § 39-121, maintained
28 by SRP regarding its recent integrated system plan (“ISP”) process and its proposal to
expand the fossil gas-fired Coolidge Generating Station (“Coolidge”).

29 2. SRP is both an agricultural improvement district and a power district.
30 As such, it is a political subdivision of the State of Arizona.

31 3. As a political subdivision of the state, SRP is a “public body” subject to
32 Arizona’s Public Records Act, A.R.S. § 39-121 *et seq.* (“Act”).

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JUN 02 2022



CLERK OF THE SUPERIOR COURT
M. PATTERSON
DEPUTY CLERK

1 4. In 2021 and 2022, Sierra Club requested to inspect records held by SRP
2 concerning the ISP process and Coolidge expansion project.

3 5. Although SRP “voluntarily” produced some records, it withheld others
4 and incorrectly claimed that it need not comply with the Act. SRP has failed to
5 identify all materials that it withheld.

6 6. Plaintiff Sierra Club therefore submits this Complaint for Statutory
7 Special Action pursuant to A.R.S. § 39-121 *et seq.* and Ariz. R. Special Actions 1-6.
8 Plaintiff respectfully requests that this Court enforce its statutory right to public
9 access and review of the documents wrongfully withheld by SRP or produced only
10 subject to a protective agreement. *See* A.R.S. §§ 39-121.01(D), 39-121.02(A).

11 **PARTIES, JURISDICTION, AND VENUE**

12 7. Sierra Club is the nation’s oldest grassroots environmental organization.
13 Sierra Club is incorporated in California and has its headquarters in Oakland,
14 California. It has nearly 630,000 members nationwide and over 12,000 members in
15 Arizona. Sierra Club is dedicated to the protection and preservation of the natural and
16 human environment. Sierra Club’s mission is “[t]o explore, enjoy and protect the wild
17 places of the earth; to practice and promote the responsible use of the earth’s
18 ecosystems and resources; to educate and enlist humanity to protect and restore the
19 quality of the natural and human environment; and to use all lawful means to carry
20 out those objectives.”

21 8. One of Sierra Club’s priority national conservation campaigns involves
22 promoting smart energy solutions. Sierra Club is particularly interested in ensuring
23 that fossil gas-fired power plants comply fully with all applicable statutes and
24 regulations. This campaign organizes individuals regionally and nationwide to work
25 on fossil gas-related issues and educates the public on these issues, including the
26 impacts of fossil gas on air and water quality.

1 9. Defendant SRP is both an agricultural improvement district and a power
2 district under Arizona law with headquarters in Tempe, Arizona. As an electric utility,
3 SRP serves over one million ratepayers in the Phoenix metropolitan area.

4 10. In August 2021, SRP announced its plan to build an additional 820
5 megawatts of electric generation capacity at the Coolidge plant, consisting of 16 new
6 fossil gas-fired combustion turbines.

7 11. Sierra Club opposed the Coolidge expansion because, among other
8 reasons, it would exacerbate the disproportionate environmental harms already
9 suffered by residents in nearby Randolph, Arizona, a predominantly African
10 American community of about 250 residents.

11 12. SRP is a political subdivision of the State of Arizona and therefore a
12 public body within the meaning of A.R.S. § 39-121.01(A)(2). *See* Ariz. Const. art. 13
13 § 7.

14 13. As a public body, SRP and its officers are required to “maintain all
15 records...reasonably necessary or appropriate to maintain an accurate knowledge of
16 their official activities and of any activities which are supported by monies from the
17 state or any political subdivision of the state.” A.R.S. § 39-121.01(B).

18 14. A.R.S. § 39-121.02(A) provides that “[a]ny person who has requested to
19 examine or copy public records pursuant to this article, and who has been denied
20 access to or the right to copy such records, may appeal the denial through a special
21 action in the superior court...” This Court therefore has jurisdiction over the parties in
22 this action, and venue is proper in Maricopa County, Arizona.

23 **BACKGROUND**

24 15. SRP has ownership interests in several coal- and fossil gas-fired power
25 plants within Arizona, including the Coolidge plant.

26 16. Sierra Club has long advocated for SRP to transition away from fossil
27 fuel sources of electricity generation to clean energy sources because fossil fuel
28 combustion produces greenhouse gas emissions. These emissions exacerbate climatic

1 and weather extremes, threatening the health and safety of humanity as well as the
2 biodiversity of the environments we depend upon.

3 17. In early 2021, SRP began developing its ISP, which includes short-term
4 resource actions as well as longer-term resource planning to meet its customers'
5 projected electricity needs.

6 18. Sierra Club actively participated in SRP's ISP process.

7 19. In August of 2021, SRP announced its intention to expand the Coolidge
8 generating station by adding 820MW of generating capacity in the form of 16
9 additional fossil gas-fired combustion turbines, more than doubling the size of the
10 plant.

11 20. Sierra Club and local residents overwhelmingly opposed the Coolidge
12 expansion, concerned that it would exacerbate the disproportionate environmental
13 harms already suffered by the nearby community of Randolph, Arizona, a
14 predominantly African American community of about 250 residents.

15 21. On September 16, 2021, Sierra Club submitted a written public records
16 request to SRP seeking records containing information that SRP relied upon in
17 developing its ISP, the analyses SRP conducted to select its future resource mix, and
18 data that would help Sierra Club's analyst team and outside consultants evaluate the
19 merits of SRP's proposed ISP and develop an alternative plan. *See* Attachment A to
20 this Complaint.

21 22. On October 1, 2021, SRP sent Sierra Club a written response to the
22 request insisting that "as an agricultural improvement district, SRP is not subject to
23 the Public Records Act as the Act's inclusion of special districts is limited to 'tax
24 supported district[s],' which excludes SRP." SRP also claimed that "well-recognized
25 exceptions to Arizona's Public Records Act" applied to the requested records, such as
26 the principle that documents rendered confidential by statute are not subject to
27 disclosure. Specifically, SRP suggested that some of the responsive records were
28 protected from disclosure under A.R.S. § 30-808 because they were competitively

1 sensitive. SRP did not identify which records it was withholding or the particular
2 justifications for withholding them, beyond the general assertion that they were
3 competitively sensitive and therefore confidential. Nonetheless, SRP agreed to
4 “voluntarily” produce some, but not all, responsive records. *See* Attachment B to this
5 Complaint.

6 23. On October 25, 2021, Sierra Club submitted a second written public
7 records request to SRP, this time requesting records relating to SRP’s evaluation of
8 the Coolidge expansion project. *See* Attachment C to this Complaint.

9 24. On November 12, 2021, SRP sent Sierra Club a written response to its
10 October 25, 2021 request, once again insisting that SRP was not subject to the
11 requirements of the Public Records Act, claiming that some of the requested records
12 were protected under A.R.S. § 30-808 as competitively sensitive, but nevertheless
13 agreeing to produce some, but not all, responsive records. Similar to its prior
14 response, SRP did not identify which records it was withholding or the particular
15 justifications for withholding them, beyond the general assertion that they were
16 competitively sensitive and therefore confidential. *See* Attachment D to this
17 Complaint.

18 25. Sierra Club subsequently learned from the SRP website that SRP had
19 hired an external consultant, E3 Consulting (“E3”), to study whether SRP could build
20 a portfolio of zero-carbon resources that could achieve the same reliability as the
21 Coolidge expansion project.

22 26. Any written study on this topic by E3 would be responsive to Sierra
23 Club’s October 25, 2021 public records request, yet SRP did not provide such a study
24 to Sierra Club.

25 27. On November 23, 2021, Sierra Club requested that SRP provide the E3
26 study as a supplemental response to the October 25, 2021 records request. *See*
27 Attachment E to this Complaint.

28

1 28. On December 10, 2021, SRP responded by providing Sierra Club with a
2 copy of its responses to questions posed by Commissioner Sandra Kennedy of the
3 Arizona Corporation Commission, which summarized the E3 study’s high-level
4 findings. However, SRP did not provide a copy of the E3 study itself. *See* Attachment
5 E.

6 29. On December 15, 2021, Sierra Club provided notice of its intent to be a
7 party in the Certificate of Environmental Compatibility (“CEC”) proceeding for the
8 Coolidge expansion project before the Arizona Corporation Commission’s Power
9 Plant and Line Siting Committee.

10 30. On January 4, 2022, eight residents of Randolph, Arizona also provided
11 notice of their intent to be parties in the CEC proceedings to oppose the Coolidge
12 plant expansion.

13 31. In connection with the CEC proceeding, SRP provided Sierra Club with
14 a copy of a slide deck summarizing the findings of the E3 study. This slide deck was
15 produced under a confidential designation pursuant to a protective agreement,
16 however, and was not produced as a public record. Under the terms of the protective
17 agreement, Sierra Club is forbidden from using the slide deck for any reason other
18 than its intervention in the CEC proceeding, which precludes using the deck in Sierra
19 Club’s public education and advocacy or in any other venues like SRP’s ongoing ISP
20 proceeding. While SRP agreed to allow Sierra Club to introduce 4 slides from the E3
21 report as a public exhibit in the CEC proceeding, the majority of the slide deck
22 remains subject to SRP’s use restrictions.

23 32. On March 9, 2022, Jennifer Anderson, an attorney representing Sierra
24 Club, emailed SRP’s Chief Legal Executive Michael O’Connor to explain that: (1)
25 SRP is subject to Arizona’s Public Records Act; (2) the E3 slide deck is a public
26 record; and (3) the slides are not confidential. Ms. Anderson requested that SRP
27 produce the E3 slide deck as a public document no later than March 17, 2022. Mr.
28 O’Connor did not respond to the email and, to date, SRP has not publicly produced

1 the slide deck or any other written study by E3, with the exception of 4 slides. *See*
2 Attachment F to this Complaint.

3 33. Sierra Club has reason to believe that SRP is in possession of other
4 documents, beyond the E3 study, that are responsive to Sierra Club's records requests
5 but have not been disclosed.

6 34. On May 19, 2022, Ms. Anderson emailed Mr. O'Connor to request
7 pursuant to A.R.S. § 39-121.01(D)(2) that SRP provide an index for all records it
8 withheld in response to Sierra Club's records requests dated September 16, 2021 and
9 October 25, 2021, as well as Sierra Club's supplemental records request dated
10 November 23, 2021. Ms. Anderson requested that SRP provide the index no later than
11 May 31, 2022. Mr. O'Connor did not respond to the email and, to date, SRP has not
12 produced an index of withheld records. *See* Attachment G to this Complaint.

13 **COUNT ONE**

14 **(Violation of Arizona's Public Records Act)**

15 35. Sierra Club realleges and incorporates by reference the allegations set
16 forth in the paragraphs above.

17 36. Arizona's Public Records Law requires that "public records and other
18 matters in the custody of any officer shall be open to inspection by any person at all
19 times during office hours." A.R.S. § 39-121.01.

20 37. An "officer" is defined by A.R.S. § 39-121.01(A)(1) as "any person
21 elected or appointed to hold any elective or appointive office of any public body and
22 any chief administrative officer, head, director, superintendent or chairman of any
23 public body."

24 38. A public body means "any county, town, school district, political
25 subdivision or tax-supported district in this state..." A.R.S. § 39-121.01(A)(2).

26 39. As an agricultural improvement and power district, SRP is a political
27 subdivision of the state of Arizona and is therefore a public body under the Public
28 Records Act. *See* Ariz. Const. art. 13 § 7 (all "irrigation, power, electrical, agricultural

1 improvement, drainage, and flood control districts, and tax levying public
2 improvement districts...shall be political subdivisions of the state...”).

3 40. As a public body, SRP is required to make all “public records and other
4 matters” available for inspection and copying by members of the public, including
5 Sierra Club. A.R.S. §§ 39-121 – 121.01(B).

6 41. The Public Records Act defines a public record as all records
7 “...reasonably necessary or appropriate to maintain an accurate knowledge of [the
8 officer’s] official activities and of any of their activities that are supported by monies
9 from this state or any political subdivision of this state.”

10 42. Arizona courts construe the meaning of public records broadly, creating
11 a presumption towards disclosure of public information. *See Lake v. City of Phoenix*,
12 222 Ariz. 547, 549 (2009).

13 43. The E3 study and the other records requested by Sierra Club were
14 created as part of SRP’s ISP process or in the process of evaluating the Coolidge
15 expansion project, both part of SRP’s official activities, and are held by its officers.
16 They therefore constitute public records within the meaning of the Public Records
17 Act. Alternatively, they constitute “other matters.”

18 44. SRP has failed to adequately respond to Sierra Club’s public records
19 requests and has refused Sierra Club’s request to publicly disclose the E3 study.

20 45. Under A.R.S. § 39-121.01(D)(2), a custodian of records is required to
21 furnish upon request “an index of records or categories of records that have been
22 withheld and the reasons the records or categories of records have been withheld from
23 the requesting person.”

24 46. SRP has failed to respond to Sierra Club’s request for an index of all
25 records withheld by SRP in response to Sierra Club’s records requests and the reasons
26 the records were withheld.

27 47. SRP has therefore failed to perform its duties under Arizona’s Public
28 Records Act.

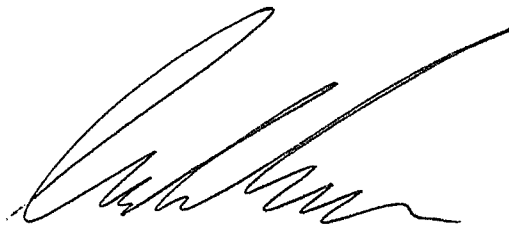
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PRAYER FOR RELIEF

48. Sierra Club requests the following relief from the Court:
- A. An order for SRP to immediately produce all of the public records and other matters requested by Sierra Club for inspection and copying, as well as an index of documents that it has withheld.
 - B. An award of attorneys' fees and reasonable legal costs incurred by Sierra Club in this special action pursuant to A.R.S. § 39-121.02(B).
 - C. Such other further relief as the Court deems just and proper.

DATED this 2nd day of June, 2022.

ARIZONA CENTER FOR LAW IN
THE PUBLIC INTEREST



Samuel Schnarch
Jennifer B. Anderson
352 E. Camelback Rd., Suite 200
Phoenix, AZ 85012

Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of June, 2022, the foregoing document was filed with the Office of the Clerk of the Superior Court, Maricopa County.

I further certify that a complete copy of the foregoing was sent for hand-delivery via process server this same date upon the following:

Salt River Project Agricultural
Improvement and Power District
1500 N. Mill Ave.
Tempe, AZ 85281

Mike Hummel, General Manager & CEO
Salt River Project Agricultural
Improvement and Power District
1500 N. Mill Ave.
Tempe, AZ 85281

Michael O'Connor, Associate General Manager &
Chief Legal Executive
Salt River Project Agricultural
Improvement and Power District
1500 N. Mill Ave.
Tempe, AZ 85281



Attachment A



September 16, 2021

VIA EMAIL

Kelly Barr
Associate General Manager & Chief Strategy, Corporate Services & Sustainability Executive
Salt River Project
1521 North Project Drive
Tempe, AZ 85281 United States
kelly.barr@srpnet.com

John Felty
Corporate Secretary
Salt River Project
1521 North Project Drive
Tempe, AZ 85281 United States
john.felty@srpnet.com

Re: Records Request

Dear Ms. Barr and Mr. Felty,

Pursuant to the Arizona Public Records law (“APR”) Ariz. Rev. Stat. Ann. § 39-121 *et seq.*, Sierra Club is writing to request the records described below.

Sierra Club is the nation’s oldest grassroots environmental organization. It has nearly 630,000 members nationwide, and over 12,000 members in Arizona. Sierra Club is dedicated to the protection and preservation of the natural and human environment. Sierra Club’s purpose is to explore, enjoy and protect the wild places of the earth; to practice and promote the responsible use of the earth’s ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environments.

One of Sierra Club’s priority national conservation campaigns involves promoting smart energy solutions. Sierra Club is particularly interested in ensuring that gas plants comply fully with all applicable statutes and regulations. This campaign organizes individuals regionally and nationwide to work on natural gas-related issues and educates the public on these issues, including the impacts of natural gas on air and water quality.

REQUESTED RECORDS

Sierra Club requests the following permits and records¹ related to Salt River Project's ("SRP") Integrated System Planning ("ISP") for the period 2025 - 2035. **The timeline for the request is January 1, 2019 through the date of your search.** Sierra Club requests:

1. Any and all inputs—such as resource-cost assumptions, key terms of long-term fuel contracts, projected operations and maintenance expenses and capital expenditures for all existing resources throughout the planning window, load forecasts assumptions, as well as any calculations, analyses, or studies—that SRP is using in the development of the ISP;
2. Any and all records related to the treatment of the remaining book value of Coronado Generating Station, Springerville Generating Station, Coolidge Generating Station, Agua Fria Generating Station, and Desert Basin Generating Station;
3. Any and all records of the procurement processes that are being used or will be used to identify available supply-side and demand-side resources;
4. Any and all records describing what modeling software SRP is using;
5. Any and all records describing the methodology that SRP is using (e.g., optimal capacity expansion or capacity scenarios, coupling capacity and dispatch, how their models incorporate storage, etc.);
6. The timeline for SRP to publicly release interim and final work product(s);
7. Any and all records identifying key internal and external stakeholders;
8. Any and all records of how SRP is incorporating input from internal and external stakeholders, including but not limited to the ISP Summer Series Stakeholders; and,
9. Any and all records of how SRP is incorporating input from others, besides key internal and external stakeholders.

¹ For the purposes of this request, the term "records" means information of any kind, including writings (handwritten, types, electronic, or otherwise produced, reproduced, or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, guidance documents, policies, telephone conversations, telefaxes, e-mails, documents, databases, drawings, graphs, charts, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. Without limitation, the records requested include records relating to the topics described below at any stage of development, whether proposed, draft, pending, interim, final, or otherwise. All the foregoing are included in this request if they are in the possession of or otherwise under the control of Salt River Project.

EXEMPT RECORDS

There is no basis for claiming that the records requested herein are exempt from immediate disclosure under the APR law. In the event that some portions of the requested documents are properly exempt from disclosure, please provide a citation to the specific statute or other legal authority that makes the public book or record, or a part thereof, confidential. If it is your position that a document contains non-exempt segments but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt and how the material is dispersed throughout the document. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

FEE WAIVER REQUEST

We respectfully request that any fee for the processing, production, or replication of the requested documents be waived.

1. Sierra Club is a nonprofit, public interest organization of limited resources; paying significant fees would pose a hardship on the Club. Additionally, this information will not be used for commercial purposes.
2. The waiver of fees for Sierra Club is in the public interest because furnishing the requested documents primarily benefits the general public. Sierra Club represents over 12,000 members throughout the State of Arizona.

If for any reason the ADEQ does not waive the fees, please notify us immediately with the reasons for the denial and the costs that would be involved prior to any copying of the requested documents.

RECORDS DELIVERY

We request that Salt River Project comply with all relevant deadlines and other obligations set forth in the APR law. Please respond to this request as “prompt[ly]”² as possible. If access to the records I am requesting will take longer than a reasonable amount of time, please contact me with information about when I might expect the requested records.

If you have any questions about this request or foresee problems in fully releasing the requested records promptly, please contact me by phone at (510) 932-9556 or by email at miriam.raffel-smith@sierraclub.org within that time period. We appreciate your cooperation and I would be happy to clarify this request or otherwise simplify your efforts to comply. Additionally, to facilitate delivery, please email PDF electronic copies of the requested documents to this email address. If an electronic version is unavailable, please send copies to my attention at the mailing address below. Thank you for your assistance.

² “When records are subject to disclosure under the public records statute, the required response to a request for the records is the prompt and actual production of the documents.” *Phoenix New Times, L.L.C. v. Arpaio* (App. Div.1 2008) 217 Ariz. 533, 177 P.3d 275, review denied. See also Ariz. Rev. Stat. Ann. § 39-121.01

Sincerely,

/s/ Louisa Eberle
Louisa Eberle
Sierra Club
Environmental Law Program
1536 Wynkoop St., Suite
200
Denver, CO 80202
(415) 977-5753

Attachment B



Delivering water and power™

Michael J. O'Connor

Associate General Manager & Chief Legal Executive

PAB234 | P.O. Box 52025

Phoenix, AZ 85072-2025

P: (602) 236-5553 | F: (602) 236-5444

michael.o'connor@srpnet.com | srpnet.com

October 1, 2021

Via Managed File Transfer

Louisa Eberle

Sierra Club

Environmental Law Program

1536 Wynkoop St., Ste. 200

Denver, CO 80202

louisa.eberle@sierraclub.org

Re: September 16, 2021 Records Request

Dear Ms. Eberle:

Salt River Project Agricultural Improvement and Power District ("SRP") is in receipt of your September 16, 2021 letter seeking several categories of records, dated January 1, 2019 to present, related to "Salt River Project's ("SRP's") Integrated System Planning ("ISP") for the period 2025-2035" (the "Request").

As an agricultural improvement district, SRP is not subject to the Public Records Act as the Act's inclusion of special districts is limited to "tax supported district[s]," which excludes SRP. In addition, well-recognized exceptions to Arizona's Public Records Act apply to the content sought in your request. Arizona has long recognized the principle that documents rendered confidential by statute are not subject to disclosure under Arizona's Public Records Act. The "Arizona Attorney General has compiled a list of statutes making records confidential or nondiscloseable in the Arizona Agency Handbook." *Phoenix Newspapers Inc. v. Ellis*, 215 Ariz. 268, 273 (App. 2007). A.R.S. § 30-808 provides that a public utility's competitively sensitive documents are protected from disclosure as confidential and, thus, Arizona statutory law expressly exempts from production or inspection certain of the information that you have requested that has not already been made public.

Louisa Eberle
October 1, 2021

Notwithstanding the foregoing exceptions, SRP has agreed to voluntarily produce the enclosed responsive documents. As set forth in the enclosed documents, the ISP process is currently in the "Readiness and Preparation" phase. As such, the methodology, scenarios, inputs and modeling software have not yet been decided upon or developed. Please contact me if you have any questions.

Regards,

Michael J. O'Connor
Associate General Manager &
Chief Legal Executive

Enclosure

CC: miriam.raffel-smith@sierraclub.org

MJO/aeh

Attachment C



October 25, 2021

VIA EMAIL

Kelly Barr
Associate General Manager & Chief Strategy, Corporate Services & Sustainability Executive
Salt River Project
1521 North Project Drive
Tempe, AZ 85281 United States
kelly.barr@srpnet.com

John Felty
Corporate Secretary
Salt River Project
1521 North Project Drive
Tempe, AZ 85281 United States
john.felty@srpnet.com

Re: Records Request

Dear Ms. Barr and Mr. Felty,

Pursuant to the Arizona Public Records law (“APR”) Ariz. Rev. Stat. Ann. § 39-121 *et seq.*, Sierra Club is writing to request the records described below.

Sierra Club is the nation’s oldest grassroots environmental organization. It has nearly 630,000 members nationwide, and over 12,000 members in Arizona. Sierra Club is dedicated to the protection and preservation of the natural and human environment. Sierra Club’s purpose is to explore, enjoy and protect the wild places of the earth; to practice and promote the responsible use of the earth’s ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environments.

One of Sierra Club’s priority national conservation campaigns involves promoting smart energy solutions. Sierra Club is particularly interested in ensuring that gas plants comply fully with all applicable statutes and regulations. This campaign organizes individuals regionally and nationwide to work on natural gas-related issues and educates the public on these issues, including the impacts of natural gas on air and water quality.

REQUESTED RECORDS

Sierra Club requests the following permits and records¹ related to Salt River Project's Coolidge Generating Station. Sierra Club requests:

1. Please provide the following information as of December 31 for each of the years 2018-2021 (inclusive):
 - a. Gross plant balance.
 - b. Accumulated depreciation balance.
 - c. Net plant balance.
 - d. Net salvage (or negative net salvage).
 - e. The identification and quantification of any other category of expense collected through depreciation expense (e.g. asset retirement obligations, remediation accounts, etc.).
 - f. Estimated end-of-useful life date for purposes of setting a depreciation schedule.
 - g. The then-applicable annual depreciation expense attributable to the generating unit.
 - h. Property taxes.
 - i. Property insurance.
 - j. To the extent that any of the values in (a) – (i) are quantified differently in base rates and any applicable rate riders, please include both amounts.
2. Please provide the following information:
 - a. Identify the currently applicable gas fuel supply contract(s), including the supplier for such contracts. Please provide copies of each contract.

¹ For the purposes of this request, the term "records" means information of any kind, including writings (handwritten, types, electronic, or otherwise produced, reproduced, or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, guidance documents, policies, telephone conversations, telefaxes, e-mails, documents, databases, drawings, graphs, charts, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. Without limitation, the records requested include records relating to the topics described below at any stage of development, whether proposed, draft, pending, interim, final, or otherwise. All the foregoing are included in this request if they are in the possession of or otherwise under the control of Salt River Project.

- b. Identify the term of any currently applicable gas fuel supply contract (i.e. length of the contract until expiration or option to renew).
 - c. Indicate whether the gas fuel supply contract includes any minimum take provisions, and if so, identify the minimum take quantities along with any penalties for failing to meet those quantities and any conditions under which SRP is relieved of its minimum take obligations.
 - d. Indicate liquidated damages for each year, and how these are calculated.
 - e. Identify any changes to, or additional, gas supply contracts that SRP anticipates entering in order to supply the additional CTs at Coolidge.
3. Please state whether the Company has examined the impact on capacity adequacy, transmission grid support, voltage support, or other reliability measures if the Company were to pursue other alternatives than expanding the Coolidge Generating Station in 2021-2022.
 - a. If so, identify and produce any analyses, studies, or other documents regarding:
 - i. Any such impact.
 - ii. The cost of remediating that impact.
 - iii. How long it would take to remediate that impact.
 - b. If not:
 - i. Explain why not.
 - ii. Identify any studies or analyses that the Company believes would be needed to identify such impacts.
4. Please identify and produce each and any analysis carried out since 2018 comparing the cost of meeting the energy and capacity needs that provide the basis for the Coolidge Generating Station expansion through a combination of any of the following energy resources (i.e., any analysis evaluating alternatives that would serve the same energy and capacity needs for which SRP plans to expand Coolidge):
 - a. Energy efficiency.
 - b. Battery storage.
 - c. Demand response.
 - d. Market purchases.
 - e. Power purchase agreements.

- f. Existing natural gas combined cycle or combustion turbine capacity.
 - g. New natural gas combined cycle or combustion turbine capacity.
 - h. Conversion of natural gas combustion turbines to natural gas combined cycle units.
 - i. Combined heat and power.
 - j. Wind.
 - k. Solar.
 - l. Solar and battery combined.
 - m. Geothermal.
 - n. Any combination of the above resources.
5. Please provide each forecast produced by or for the Company for the years 2018 through present (latest available) and specify the percentage of ownership being reported (where applicable):
- a. Wholesale energy market prices.
 - b. Coal prices.
 - c. Natural gas prices.
 - d. Renewable energy prices.
 - e. Battery storage prices.
 - f. Generation of each Coolidge unit.
 - g. Forced outage rate at each Coolidge unit.
 - h. Planned outage rate at each Coolidge unit.
 - i. Fixed O&M costs at each Coolidge unit.
 - j. Non-fuel variable O&M costs at each Coolidge unit.
 - k. Fuel costs at each Coolidge unit.
 - l. Fuel usage (MMBtu) by type at each Coolidge unit.
 - m. Environmental capital costs at each Coolidge unit.
 - n. Non-environmental capital costs at each Coolidge unit.

- o. For (a)-(l), provide the date each forecast was produced.
6. Please provide each forecast reviewed by the Company developed in 2016 through present (or the latest available) regarding:
- a. Wholesale energy market prices.
 - b. Coal prices.
 - c. Natural gas prices.
 - d. Renewable energy prices.
 - e. Battery storage prices.
 - f. For (a)-(c), provide dates that these forecasts were reviewed—preferably the day, if not the month.
7. Has the Company issued any Requests for Proposals (RFPs) for capacity and/or energy since 2016?
- a. If so, please provide:
 - i. Copies of all RFPs that were issued by the Company.
 - ii. All bids received in response to these RFP's, including (not limited to) the costs and terms.
 - iii. Analyses conducted by or for the Company in evaluating these bids, including supporting workpapers in executable format (preferably Excel) with all calculations and formulas intact.
 - b. If not, explain why not.
8. Apart from issuing RFPs, has the Company conducted any assessment of the market for capacity and/or energy resources since 2016?
- a. If so, please describe what activities the Company undertook to assess this market.
 - b. If so, please provide such assessments, in the form of documents and/or workpapers, in executable format (preferably Excel) with all calculations and formulas intact.
 - c. If not, explain why not.

EXEMPT RECORDS

There is no basis for claiming that the records requested herein are exempt from immediate disclosure under the APR law. In the event that some portions of the requested documents are properly exempt from disclosure, please provide a citation to the specific statute or other legal authority that makes the public book or record, or a part thereof, confidential. If it is your position

that a document contains non-exempt segments but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt and how the material is dispersed throughout the document. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

FEE WAIVER REQUEST

We respectfully request that any fee for the processing, production, or replication of the requested documents be waived.

1. Sierra Club is a nonprofit, public interest organization of limited resources; paying significant fees would pose a hardship on the Club. Additionally, this information will not be used for commercial purposes.
2. The waiver of fees for Sierra Club is in the public interest because furnishing the requested documents primarily benefits the general public. Sierra Club represents over 12,000 members throughout the State of Arizona.

If for any reason the SRP does not waive the fees, please notify us immediately with the reasons for the denial and the costs that would be involved prior to any copying of the requested documents.

RECORDS DELIVERY

We request that Salt River Project comply with all relevant deadlines and other obligations set forth in the APR law. Please respond to this request as “prompt[ly]”² as possible. If access to the records I am requesting will take longer than a reasonable amount of time, please contact me with information about when I might expect the requested records.

If you have any questions about this request or foresee problems in fully releasing the requested records promptly, please contact me by email at louisa.eberle@sierraclub.org or Legal Assistant Miriam Raffel-Smith by phone at (510) 932-9556 or by email at miriam.raffel-smith@sierraclub.org within that time period. We appreciate your cooperation and I would be happy to clarify this request or otherwise simplify your efforts to comply.

Additionally, to facilitate delivery, please email PDF electronic copies of the requested documents to louisa.eberle@sierraclub.org, copying miriam.raffel-smith@sierraclub.org. If an electronic version is unavailable, please send copies to my attention at the mailing address below. Thank you for your assistance.

² “When records are subject to disclosure under the public records statute, the required response to a request for the records is the prompt and actual production of the documents.” *Phoenix New Times, L.L.C. v. Arpaio* (App. Div.1 2008) 217 Ariz. 533, 177 P.3d 275, *review denied*. See also Ariz. Rev. Stat. Ann. § 39-121.01

Sincerely,

/s/ Louisa Eberle

Louisa Eberle
Sierra Club
Environmental Law Program
1536 Wynkoop St., Suite 200
Denver, CO 80202
(415) 977-5753

Attachment D



Delivering water and power™

Michael J. O'Connor

Associate General Manager & Chief Legal Executive

PAB234 | P.O. Box 52025

Phoenix, AZ 85072-2025

P: (602) 236-5553 | F: (602) 236-5444

michael.o'connor@srpnet.com | srpnet.com

November 12, 2021

Via Managed File Transfer

Louisa Eberle

Sierra Club

Environmental Law Program

1536 Wynkoop St., Ste. 200

Denver, CO 80202

louisa.eberle@sierraclub.org

Re: October 25, 2021 Records Request

Dear Ms. Eberle:

Salt River Project Agricultural Improvement and Power District ("SRP") is in receipt of your October 25, 2021 public records request seeking several categories of records related to "Salt River Project's Coolidge Generating Station" (the "Request"). As an agricultural improvement district, SRP is not subject to the Public Records Act as the Act's inclusion of special districts is limited to "tax supported district[s]," which excludes SRP.

In addition, well-recognized exceptions to Arizona's Public Records Act apply to the content sought in your request. Arizona has long recognized the principle that documents rendered confidential by statute are not subject to disclosure under Arizona's Public Records Act. The "Arizona Attorney General has compiled a list of statutes making records confidential or nondiscloseable in the Arizona Agency Handbook." *Phoenix Newspapers Inc. v. Ellis*, 215 Ariz. 268, 273 (App. 2007). A.R.S. § 30-808 provides that a public utility's competitively sensitive documents are protected from disclosure as confidential and, thus, Arizona statutory law expressly exempts from production or inspection certain of the information that you have requested that has not already been made public.

Louisa Eberle
November 12, 2021

Notwithstanding the foregoing exceptions, SRP has agreed to voluntarily produce the enclosed responsive documents. Please contact me if you have any questions.

Regards,

Michael J. O'Connor
Associate General Manager &
Chief Legal Executive

Enclosure

CC: miriam.raffel-smith@sierraclub.org

MJO/eah

Attachment E

----- Forwarded message -----

From: O'Connor Michael J <Michael.OConnor@srpnet.com>

Date: Fri, Dec 10, 2021 at 4:58 PM

Subject: RE: SRP Response: Sierra Club Records Request, 10-25-21

To: Louisa Eberle <louisa.eberle@sierraclub.org>

Cc: Hope Ashleigh <Ashleigh.Hope@srpnet.com>, Felty John M <John.Felty@srpnet.com>,

Miriam Raffel-Smith <miriam.raffel-smith@sierraclub.org>, Sandy Bahr

<sandy.bahr@sierraclub.org>, Court Rich <CRich@roselawgroup.com>

Lousia- thank you for your email.

We are still working with respect to a formal response to your Request/email follow up- and will have something to you next week.

In the interim, I have attached the SRP response to Commissioner Kennedy, that we are filing today that has many of the same questions.

Let me know if you have any questions

Michael

Michael J. O'Connor

Associate General Manager and Chief Legal Executive

SRP | Law, Land & Risk Management | Mail Stop: PAB234

P.O. Box 52025 |Phoenix, AZ 85072-2025

P: (602) 236-5553 | F: (602) 236-5370

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From: Louisa Eberle <louisa.eberle@sierraclub.org>
Sent: Wednesday, December 8, 2021 10:20 AM
To: O'Connor Michael J <Michael.OConnor@srpnet.com>
Cc: Hope Ashleigh <Ashleigh.Hope@srpnet.com>; Felty John M <John.Felty@srpnet.com>;
Miriam Raffel-Smith <miriam.raffel-smith@sierraclub.org>; Sandy Bahr
<sandy.bahr@sierraclub.org>; Court Rich <CRich@roselawgroup.com>
Subject: Re: SRP Response: Sierra Club Records Request, 10-25-21

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For mobile forward to phish@srpnet.com

Michael, I wanted to check in to see whether SRP has made progress in preparing a supplemental production to include the E3 study. You previously indicated you anticipated being able to respond this week, so I thought I would see what the status is.

Please let me know if you have any questions.

Best,

Louisa

On Thu, Dec 2, 2021 at 5:06 PM Louisa Eberle <louisa.eberle@sierraclub.org> wrote:

Thank you, Michael. I appreciate you looking into it.

Louisa

On Thu, Dec 2, 2021 at 4:03 PM O'Connor Michael J <Michael.OConnor@srpnet.com> wrote:

Louisa,

SRP, and now I, have received your November 23, 2021 email request for a supplemental production of additional records. We are currently in the process of reviewing your request and expect to be in a position to provide SRP's response in the next week or so. Please let me know if you have any questions.

Michael

Michael J. O'Connor

Associate General Manager and Chief Legal Executive

SRP | Law, Land & Risk Management | Mail Stop: PAB234

P.O. Box 52025 | Phoenix, AZ 85072-2025

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From: Louisa Eberle <louisa.eberle@sierraclub.org>

Sent: Tuesday, November 23, 2021 3:49 PM

To: O'Connor Michael J <Michael.OConnor@srpnet.com>; Hope Ashleigh <Ashleigh.Hope@srpnet.com>; Felty John M <John.Felty@srpnet.com>

Cc: Miriam Raffel-Smith <miriam.raffel-smith@sierraclub.org>; Sandy Bahr <sandy.bahr@sierraclub.org>

Subject: Re: SRP Response: Sierra Club Records Request, 10-25-21

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For mobile forward to phish@srpnet.com

I got a bounce-back message with the original email address (copied from your response letter), so I'm trying again. Please see my email below.

Mr. Felty or Ms. Ashleigh, please let me know if there is an alternative email address I should use for Ms. O'Connor.

On Tue, Nov 23, 2021 at 3:45 PM Louisa Eberle <louisa.eberle@sierraclub.org> wrote:

Mr. O'Connor,

Sierra Club has reviewed your response to our October 25, 2021 public records request. We disagree with SRP's positions, as articulated in your cover letter, but I won't get into that unless we reach an impasse on Sierra Club's request for a supplemental response below. I will also note that Sierra Club is willing to discuss a protective/non-disclosure agreement to facilitate production of confidential records, if needed.

We have gone through all of the files included in the response, and I didn't see a study from E3. Based on SRP's [FAQ site](#), my understanding is that SRP hired E3 as a consultant to review alternatives to the expansion at Coolidge. Such a study would fall within the scope of our initial requests (attached), including questions 3 and 4. Thus, SRP should provide the E3 study as a supplemental response.

Please let me know if you have questions.

Thank you and I hope you have a happy Thanksgiving holiday,

Louisa

On Mon, Nov 15, 2021 at 2:59 PM Hope Ashleigh <Ashleigh.Hope@srpnet.com> wrote:

Hi There – I apologize for the oversight. The correct file has been uploaded and is

now available at the same link provided below. Thanks,

Ashleigh Hope (she/her/hers)

P: (602) 206-1247 | PAB381

From: Miriam Raffel-Smith <miriam.raffel-smith@sierraclub.org>
Sent: Monday, November 15, 2021 2:25 PM
To: Louisa Eberle <louisa.eberle@sierraclub.org>
Cc: Hope Ashleigh <Ashleigh.Hope@srpnet.com>
Subject: Re: SRP Response: Sierra Club Records Request, 10-25-21

CAUTION - EXTERNAL EMAIL
Phishing? Click the fish in Outlook
For mobile forward to phish@srpnet.com

Hello Ms. Hope,

I just tried to download the documents via the Managed File Transfer site and the only document that appears to be available is the response letter. It appears that there should also be additional "enclosed responsive documents" available to download, is that correct?

Thank you.

On Mon, Nov 15, 2021 at 12:43 PM Louisa Eberle <louisa.eberle@sierraclub.org> wrote:

Ms. Hope,

Thank you for providing the response. We will let you know if we have any questions.

Louisa

On Fri, Nov 12, 2021 at 4:19 PM Hope Ashleigh <Ashleigh.Hope@srpnet.com> wrote:

Dear Ms. Eberle:

SRP's response to your recent records request can now be accessed via SRP's Managed File Transfer site. To view and download the files, please click [this link](#) and follow the instructions below (skip to **Step 5** if you've previously created an account):

1. Click **Create Account**
2. Enter your email address and desired password
3. Click **Create Account** (a confirmation email will be sent to the email address you entered)
4. Open the confirmation email and click **Activate Account** (you will be redirected to the SRP Managed File Transfer site)
5. Log in to the site using your new credentials
6. Download the relevant files to your desktop
7. When you are finished, log out

The files will be accessible for **2 weeks** before they automatically expire, so please download the documents you need before then. If you have any questions or technical difficulties, please let me know.

Thank you,

Ashleigh Hope (she/her/hers)

Paralegal - Litigation

SRP | Legal Services | PAB381

P.O. Box 52025, Phoenix, AZ 85072-2025

P: (602) 206-1247 | E: Ashleigh.Hope@srpnet.com

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photo



Louisa Eberle

she/her/hers

Staff Attorney

1536 Wynkoop St. Suite 200

Denver, CO 80202

[415.977.5753](tel:415.977.5753)

louisa.eberle@sierraclub.org

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Miriam Raffel-Smith

Legal Assistant

she/her/hers

Environmental Law Program

2101 Webster St., Suite 1300

Oakland, CA 94612

Phone: (415) 977-5745

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louisa.eberle@sierraclub.org

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Attachment F

From: [Jennifer Anderson](#)
To: [michael.o"connor@srpnet.com](mailto:michael.o)
Cc: [Sam Schnarch](#)
Subject: Sierra Club Public Records Request - E3 report
Date: Wednesday, March 9, 2022 11:08:00 AM

Michael,

We talked some time ago about the Sierra Club's public records request to SRP last fall and our belief that an E3 report regarding the Coolidge Expansion Project was responsive to the request but not produced.

I understand that an E3 report (actually a slide deck) was produced under a confidential designation pursuant to a protective agreement in the Coolidge Expansion Project line siting proceeding. However, the Sierra Club believes: (1) SRP is subject to Arizona's public records act; (2) the E3 slide deck is a public record; and (3) it is not confidential. It therefore should have been produced in response to the Club's public records request.

We are asking you to do this now. Please produce the E3 slide deck as a public document no later than **Friday, March 17th**. Feel free give me a call on my cell phone at 602-549-1699 if you would like to discuss this further.

Thank you,

Jennifer B. Anderson

Staff Attorney

Arizona Center for Law in the Public Interest

352 E. Camelback Road, Suite 200

Phoenix, Arizona 85012

Email: janderson@aclpi.org

Phone: (602) 258-8850

Fax: (602) 926-0214

Attachment G

From: [Jennifer Anderson](mailto:janderson@aclpi.org)
To: michael.o.connor@srpnet.com
Cc: [Sandy Bahr \(sandy.bahr@sierraclub.org\)](mailto:sandy.bahr@sierraclub.org); [Patrick Woolsey - Sierra Club Environmental Law Program \(patrick.woolsey@sierraclub.org\)](mailto:patrick.woolsey@sierraclub.org); [Sam Schnarch](mailto:sam.schnarch@sierraclub.org)
Subject: Sierra Club's Public Records Requests
Date: Thursday, May 19, 2022 4:55:00 PM

Michael,

This email concerns Sierra Club's public records requests to SRP this past fall. As I believe I mentioned, I represent Sierra Club with respect to these requests.

Under A.R.S. § 39-121.01(D)(2), a custodian of records is required to furnish upon request an "index of records or categories of records that have been withheld and the reasons the records or categories of records have been withheld from the requesting person." Failure to do so constitutes a denial of access to public records under Arizona's Public Records Act. A.R.S. § 39-121.01(E).

Please produce such an index for all records withheld by SRP in response to Sierra Club's records requests dated September 16, 2021 and October 25, 2021, as well as Sierra Club's supplemental records request dated November 23, 2021. Please provide this index no later than **May 31, 2022**. Feel free to call me on my cell phone at 602-549-1699 if you would like to discuss the matter further.

Thank you,

Jen

Jennifer B. Anderson

Pronouns: she/her/hers

Staff Attorney

Arizona Center for Law in the Public Interest

352 E. Camelback Road, Suite 200

Phoenix, Arizona 85012

Email: janderson@aclpi.org

Phone: (602) 258-8850

Fax: (602) 926-0214