

1 D. Victoria Baranetsky (SBN 311892)  
2 THE CENTER FOR INVESTIGATIVE REPORTING  
3 1400 65th St., Suite 200  
4 Emeryville, CA 94608  
5 Telephone: (510) 809-3160  
6 Fax: (510) 849-6141  
7 vbaranetsky@revealnews.org

8 Rachel Brooke (SBN 330505)  
9 THE CENTER FOR INVESTIGATIVE REPORTING  
10 1400 65th St., Suite 200  
11 Emeryville, CA 94608  
12 Telephone: (510) 809-2215  
13 Fax: (510) 849-6141  
14 rbrooke@revealnews.org

15 Attorneys for Plaintiffs

16 **UNITED STATES DISTRICT COURT**  
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
18 **OAKLAND DIVISION**

19 THE CENTER FOR INVESTIGATIVE ) Case No. \_\_\_\_\_  
20 REPORTING and LANCE WILLIAMS, )  
21 Plaintiffs, ) **COMPLAINT FOR INJUNCTIVE**  
22 v. ) **RELIEF**  
23 UNITED STATES DEPARTMENT OF )  
24 INTERIOR, )  
25 Defendant. )

26 **INTRODUCTION**

27 1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552,  
28 for injunctive and other appropriate relief. The Center for Investigative Reporting (“CIR”) and Lance  
Williams (collectively “Plaintiffs”) seek processing and release of agency records requested from

1 Defendant, the United States Department of the Interior (“DOI”).

2 2. On January 16, 2020, Plaintiffs submitted a FOIA request to DOI (“the Request”)  
3 seeking disclosure of documents relating to meetings on California water issues involving DOI  
4 officials covering the second half of 2018. The Request was initially assigned to DOI’s Office of  
5 the Secretary.

6 3. On May 6, 2020, as per instructions from DOI officials, Plaintiffs submitted the same  
7 Request to two other components of DOI: the DOI Bureau of Reclamation and the DOI Solicitor’s  
8 Office.

9 4. To date, Defendant DOI’s Office of the Secretary, Bureau of Reclamation, and  
10 Solicitor’s Office have failed to issue final determinations as to the Request. Defendant has failed  
11 to comply with FOIA’s statutory deadlines by not issuing final determinations as to the Request.

12 5. Plaintiffs have exhausted all other administrative remedies.

13 6. The requested records are of significant public interest because they relate directly  
14 to a secret meeting held in Lake Tahoe between DOI officials and California state officials to  
15 discuss the allocation of water resources in the state, as well as several related matters of  
16 substantial public controversy.

17 7. The requested records are of particular interest to Plaintiffs because, as members of  
18 the news media, they have an abiding interest in informing the public about matters of serious  
19 concern. Plaintiffs have reported on the allocation of resources in California and attendant public  
20 controversies, and request these records so that they may continue to do so.

21 8. Plaintiffs now ask the Court for an injunction requiring Defendant to promptly release  
22 the withheld records.

23 **JURISDICTION**

24 9. The Court has subject matter jurisdiction over this action and personal jurisdiction  
25 over the parties pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). This Court also has  
26 jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1436, and 5 U.S.C. §§ 701–706.

27  
28

1 **VENUE AND INTRADISTRICT ASSIGNMENT**

2 10. Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1391(e) and 1402.  
3 Plaintiff CIR has its principal place of business in this district.

4 11. Assignment to the Oakland Division is proper pursuant to Local Rules 3-2(c) and (d)  
5 because a substantial portion of the events giving rise to this action occurred in Alameda County,  
6 where Plaintiff CIR’s principal place of business is located and most actions in this case occurred.

7 **PARTIES**

8 12. Plaintiff CIR publishes *Reveal*, an online news site, at [revealnews.org](http://revealnews.org), and *Reveal*, a  
9 weekly public radio show with approximately 3 million listeners per week. Founded in 1977 as the  
10 first non-profit investigative news organization in the country, CIR has received multiple awards for  
11 its reporting. CIR is a non-profit established under the laws of the State of California, with its  
12 primary office in Emeryville, California.

13 13. Plaintiff Lance Williams is a staff reporter for *Reveal* and an employee of CIR.

14 14. Defendant DOI is a department of the executive branch of the United States  
15 government and an “agency” within the meaning of 5 U.S.C. § 552(f)(1). DOI has its headquarters  
16 in Washington, D.C., and approximately 2,400 operating locations for its various bureaus and offices  
17 across the country. DOI, *About*, <https://www.doi.gov/about>. DOI’s Bureau of Reclamation is a  
18 component of DOI, with regional offices throughout the country, including in Fresno, CA and  
19 Sacramento, CA.

20 **FACTUAL BACKGROUND**

21 15. DOI was established in 1849 with the stated mission of “tak[ing] charge of the  
22 Nation’s internal affairs” and overseeing “the internal development of the Nation [and] the welfare  
23 of its people.” DOI, *History of the Department of the Interior*,  
24 <https://www.doi.gov/whoweare/history/>. Today, DOI “conserves and manages the Nation’s natural  
25 resources and cultural heritage,” “provides scientific and other information about natural resources  
26 and natural hazards to address societal challenges and create opportunities,” and administers  
27 “responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island  
28 communities.” DOI, *About: Mission*, <https://www.doi.gov/about>.

1           16.     There are a number of offices and bureaus within DOI which focus on different  
2 aspects of its broad mandate. Relevant to this case are the Office of the Secretary, Bureau of  
3 Reclamation, and Office of the Solicitor. DOI's Office of the Secretary is an office within DOI that  
4 oversees a variety of DOI offices, including DOI's FOIA program, among others. DOI, *Interior*  
5 *Offices*, <https://www.doi.gov/bureaus/offices>. DOI's Office of the Solicitor is the office within DOI  
6 which "performs the legal work for the United States Department of the Interior, manages the  
7 Department's Ethics Office and resolves FOIA Appeals." DOI, *Office of the Solicitor*,  
8 <https://www.doi.gov/solicitor/>.

9           17.     DOI's Bureau of Reclamation was established in 1902 with the stated mission of  
10 "manag[ing] develop[ing], and protect[ing] water and related resources in an environmentally and  
11 economically sound manner in the interest of the American public." U.S. Bureau of Reclamation,  
12 *About Us: Mission*, <https://www.usbr.gov/main/about/mission.html>. The Bureau of Reclamation is  
13 "the largest wholesaler of water in the country" and serves as "a contemporary water management  
14 agency," seeking to "meet new water needs and balance the multitude of competing uses of water in  
15 the West." *Id.*

16           18.     According to a news article relying on comments by a spokesperson for the California  
17 Department of Water Resources,<sup>1</sup> in August 2018, a meeting occurred between DOI officials and  
18 California state officials, who convened at a hotel in Lake Tahoe, California to "reconcile some long-  
19 standing differences involving tunnels, fish, rivers and more" ("the Tahoe meeting"). *Id.* According  
20 to the article, topics discussed at the Tahoe meeting included then-Governor Jerry Brown's "\$17  
21 billion plan to build twin tunnels under the Sacramento-San Joaquin River Delta, the coordinated  
22 operation of state and federal projects that shuttle water from the wet north to farms and cities in the  
23 arid south, and California's controversial proposal to reduce water deliveries to farmers from the San  
24 Joaquin River to benefit fish." *Id.* The article also stated that the meeting "was held at a resort and  
25 conference center on Tahoe's North Shore." *Id.* Based on records obtained by Plaintiffs, the Tahoe

---

26 <sup>1</sup> While the meeting has not otherwise been officially acknowledged, as it was "largely kept under  
27 wraps," the California Department of Water Resources spokesperson confirmed that the meeting  
28 indeed occurred. Jeremy P. Jacobs & Michael Doyle, *Western Water Honchos Secretly Huddle on*  
*Tunnels, Fish*, E&E NEWS, Aug. 24, 2018, <https://www.eenews.net/stories/1060095217>.

1 meeting took place at a facility called “Granlibakken Tahoe.”

2 19. According to the official calendar for then-Deputy Interior Secretary, David  
3 Bernhardt, Secretary Bernhardt participated in several days of meetings at Granlibakken Tahoe in  
4 late August 2018. A true and correct copy of Secretary Bernhardt’s calendar from August 22, 2018  
5 through August 24, 2018 is attached as Exhibit A. Secretary Bernhardt’s calendar indicated he was  
6 engaged at Granlibakken Tahoe “[a]ll day” on August 22, 2018 and August 23, 2018. Ex. A. The  
7 calendar also indicated meetings and calls took place during this time and that Secretary Bernhardt  
8 travelled via commercial flight from Washington, D.C. to Reno, NV on August 22, 2018, and  
9 returned to D.C. on August 24. *Id.*

10 20. As part of his reporting, Mr. Williams has sent public records requests to California  
11 state agencies for records related to the Tahoe meeting under the California Public Records Act, Cal.  
12 Gov’t Code § 6250 *et seq.*, in addition to the instant FOIA requests. In response to a request to the  
13 California Department of Water Resources, Mr. Williams received, among other documents,  
14 invoices from Granlibakken Tahoe showing that an official with the California Department of Water  
15 Resources stayed at the hotel between August 18, 2018, and August 23, 2018—the same period  
16 during which the meeting occurred and during the same period as Secretary Bernhardt’s stay at  
17 Granlibakken Tahoe. *See* Ex. A. A true and correct copy of the invoice for the California Water  
18 Department official’s stay is attached as Exhibit B. The invoice also classified the reimbursable  
19 “report” as “TEC for Tahoe Negotiations.” Ex. B. Based on these records, Plaintiffs can reasonably  
20 conclude that Secretary Bernhardt was present at the Tahoe meeting, and that the meeting occurred  
21 at Granlibakken Tahoe, despite a lack of confirmation from DOI.

22 21. The topics discussed at the Tahoe meeting, and the allocation of water resources in  
23 California more generally, are subject to intense public interest. The so-called “twin tunnels” project,  
24 former California Governor Jerry Brown’s “plan to build two massive tunnels under the Sacramento-  
25 San Joaquin River Delta to make it easier to move water from the north to the south,” Paul Rogers,  
26 *Newsom Officially Kills Jerry Brown’s Delta Twin Tunnels Project*, MERCURY NEWS, May 2, 2019,  
27 <https://www.mercurynews.com/2019/05/02/newsom-officially-kills-jerry-browns-delta-twin->  
28

1 tunnels-project/, has garnered substantial media attention for years. *See, e.g., id.*; Peter Fimrite, *Big*  
2 *Setback for Gov. Brown’s Twin Tunnels Delta Water Project*, S.F. CHRONICLE, Dec. 7, 2018,  
3 [https://www.sfchronicle.com/news/article/Big-setback-for-Gov-Brown-s-twin-tunnels-delta-](https://www.sfchronicle.com/news/article/Big-setback-for-Gov-Brown-s-twin-tunnels-delta-13451160.php)  
4 [13451160.php](https://www.sfchronicle.com/news/article/Big-setback-for-Gov-Brown-s-twin-tunnels-delta-13451160.php); Nick Cahill, *Newsom Wades into Decades-Long Bid to Wring More Water for*  
5 *California*, COURTHOUSE NEWS SERV., Jan. 21, 2020, [https://www.courthousenews.com/newsom-](https://www.courthousenews.com/newsom-wades-into-decades-long-bid-to-wring-more-water-for-california/)  
6 [wades-into-decades-long-bid-to-wring-more-water-for-california/](https://www.courthousenews.com/newsom-wades-into-decades-long-bid-to-wring-more-water-for-california/).

7 22. The diversion of water from Northern California to the Central Valley and Southern  
8 California is an aspect of the twin tunnels plan that has long been the subject of public debate,  
9 Michelle Horton, *Stanford Experts Discuss Impacts of Downsizing the Delta Twin Tunnels Project*,  
10 STANFORD NEWS, Feb. 14, 2019, [https://news.stanford.edu/2019/02/14/impacts-downsizing-delta-](https://news.stanford.edu/2019/02/14/impacts-downsizing-delta-twin-tunnels-project/)  
11 [twin-tunnels-project/](https://news.stanford.edu/2019/02/14/impacts-downsizing-delta-twin-tunnels-project/), and was also discussed at the Tahoe meeting. Jeremy P. Jacobs & Michael  
12 Doyle, *Western Water Honchos Secretly Huddle on Tunnels, Fish*, E&E NEWS, Aug. 24, 2018,  
13 <https://www.eenews.net/stories/1060095217>. The conflict between powerful Southern California  
14 water interests and the interests of smaller communities in the Sacramento-San Joaquin River Delta  
15 has garnered substantial controversy. Michelle Horton, *Stanford Experts Discuss Impacts of*  
16 *Downsizing the Delta Twin Tunnels Project*, STANFORD NEWS, Feb. 14, 2019,  
17 <https://news.stanford.edu/2019/02/14/impacts-downsizing-delta-twin-tunnels-project/>. Further  
18 complicating the conflicting interests at stake, prior to his appointment to the DOI, Secretary  
19 Bernhardt served as the general counsel for Wetlands Water District, the affected area’s “single  
20 largest water user.” Alex Tavlian, *Interior Dept. Sued Over Obama-Era Law to Cement Valley Water*  
21 *Contracts*, SAN JOAQUIN VALLEY SUN, May 21, 2020, [http://sjvsun.com/ag/interior-dept-sued-over-](http://sjvsun.com/ag/interior-dept-sued-over-obama-era-law-to-cement-valley-water-contracts/)  
22 [obama-era-law-to-cement-valley-water-contracts/](http://sjvsun.com/ag/interior-dept-sued-over-obama-era-law-to-cement-valley-water-contracts/).

23 23. Mr. Williams, on behalf of CIR, requested these records so that he may report on a  
24 matter of public interest. As part of his work for CIR, Mr. Williams reports on the operations of  
25 federal agencies, including DOI, *see* Lance Williams, *Trump Interior Nominee Fast-Trackd a*  
26 *‘Deficient’ Drilling Permit*, REVEAL, Nov. 4, 2019, [https://www.revealnews.org/article/trump-](https://www.revealnews.org/article/trump-interior-nominee-fast-trackd-a-deficient-drilling-permit/)  
27 [interior-nominee-fast-trackd-a-deficient-drilling-permit/](https://www.revealnews.org/article/trump-interior-nominee-fast-trackd-a-deficient-drilling-permit/), as well as the fair distribution of resources  
28 in California. Lance Williams, Will Evans, & Will Carless, *California Created A Massive Medical*

1 *Reserve—With Acute Care Beds, Ventilators and N95 Masks—Then Let It Collapse*, REVEAL, Mar.  
2 27, 2020, [https://www.revealnews.org/article/california-created-a-massive-medical-reserve-with-](https://www.revealnews.org/article/california-created-a-massive-medical-reserve-with-acute-care-beds-ventilators-and-n95-masks-and-let-it-collapse/)  
3 [acute-care-beds-ventilators-and-n95-masks-and-let-it-collapse/](https://www.revealnews.org/article/california-created-a-massive-medical-reserve-with-acute-care-beds-ventilators-and-n95-masks-and-let-it-collapse/). Mr. Williams requests these  
4 records so he can continue to do the important work of reporting on matters of public concern.

### 5 **PROCEDURAL BACKGROUND**

6 24. On January 16, 2020, Mr. Williams submitted a FOIA request to DOI on behalf of  
7 CIR seeking documents concerning meetings about California water issues that involved DOI  
8 officials. A true and correct copy of the Request is attached as Exhibit C. Specifically, Mr. Williams  
9 requested “all documents, including emails, concerning or referencing meetings on California water  
10 issues involving [DOI] officials.” Ex. C. Mr. Williams further clarified that he believed the  
11 “meetings were held at Lake Tahoe, CA[] in August, 2018, possibly at a hotel and convention center  
12 called GRANLIBAKKEN Tahoe in Tahoe City.” *Id.*

13 25. In the Request, Mr. Williams explained that he believed “the meetings included then-  
14 Deputy Interior Secretary David Bernhardt and other officials of [DOI] and the Bureau of  
15 Reclamation” in addition to California state officials. *Id.* Mr. Williams noted that “Mr. Bernhardt’s  
16 calendar indicate[s] he was present” at the meetings. *Id.*; *see* Ex. A. Mr. Williams also cited an  
17 interview with an official with the California Department of Water Resources “confirming that the  
18 meetings had occurred.” Ex. C; *see* Jeremy P. Jacobs & Michael Doyle, *Western Water Honchos*  
19 *Secretly Huddle on Tunnels, Fish*, E&E NEWS, Aug. 24, 2018,  
20 <https://www.eenews.net/stories/1060095217>. Finally, Mr. Williams requested expedited processing  
21 and a fee waiver for the Request. Ex. C.

22 26. On February 18, 2020, Mr. Williams received a letter from DOI’s Office of the  
23 Secretary acknowledging the Request, denying his request for a fee waiver as moot, and denying his  
24 request for expedited processing. A true and correct copy of the acknowledgement letter is attached  
25 as Exhibit D. In the letter, DOI informed Mr. Williams that the Request had been assigned “control  
26 number OS-2020-00229.” Ex. D. It also stated that the agency did not anticipate that there would  
27 be any payable fees associated with responding to the request, making the request for a fee waiver  
28



1 moot. *Id.* Finally, DOI denied Mr. Williams’s request for expedited processing because he had  
2 “no[t] provided enough reasoning why this is an urgent public matter.” *Id.*

3 27. On March 27, 2020, Mr. Williams received an email from an official with DOI’s  
4 Office of the Secretary informing him that he “also need[ed] to file a FOIA request with the Bureau  
5 of Reclamation FOIA office, and the Office of the Solicitor FOIA office[,]” and that the Office of  
6 the Secretary would be handling certain portions of the Request, while the other two DOI components  
7 would handle others. A true and correct copy of this email is attached as Exhibit E.

8 28. On May 6, 2020, Mr. Williams sent the FOIA Request to DOI’s Bureau of  
9 Reclamation as per the Office of the Secretary’s instructions. *See* Ex. E. Mr. Williams included the  
10 text of the Request with the addition of a statement explaining that the Office of the Secretary had  
11 instructed him to submit the Request to the Bureau of Reclamation. A true and correct copy of the  
12 Request as sent to the Bureau of Reclamation is attached as Exhibit F.

13 29. On May 6, 2020, Mr. Williams sent the FOIA Request to DOI’s Office of the Solicitor  
14 as per the Office of the Secretary’s instructions. *See* Ex. E. Mr. Williams included the text of the  
15 Request with the addition of a statement explaining that the Office of the Secretary had instructed  
16 him to submit the Request to the Office of the Solicitor. A true and correct copy of the Request as  
17 sent to the Office of the Solicitor is attached as Exhibit G.

18 30. On May 20, 2020, Mr. Williams received a letter from DOI’s Bureau of Reclamation  
19 acknowledging the Request, granting his request for a fee waiver, and denying his request for  
20 expedited processing. A true and correct copy of the Bureau of Reclamation’s acknowledgement  
21 letter is attached as Exhibit H. In the letter, the Bureau of Reclamation informed Mr. Williams that  
22 his request had been assigned tracking number BOR-2020-00169. Ex. H. It also noted that the  
23 Bureau of Reclamation had “begun the search for records” and that Mr. Williams’s “request for a fee  
24 waiver is granted.” *Id.* Finally, the acknowledgement letter denied Mr. Williams’s request for  
25 expedited processing, stating that the Request “does not contain enough evidence to support” the  
26 Bureau of Reclamation’s criteria for expedited processing, as, in its view, “[r]ecords regarding the  
27 2018 meeting do not appear to have the type of breaking news urgency that would be lost if the  
28 records are not published quickly.” *Id.*





