

**Dias, Matt@BOF**

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**From:** Taiga.Takahashi@lw.com  
**Sent:** Tuesday, March 07, 2017 3:28 PM  
**To:** Public Comments@BOF  
**Cc:** Dias, Matt@BOF  
**Subject:** Board of Forestry, Comment re Mar. 8, 2017 meeting, Item 17  
**Attachments:** S218066.pdf

Good afternoon.

Please accept the following comment into the public record for Item 17 of the Board's Agenda for the March 8, 2017 meeting.

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I am writing on behalf of Rancho Guejito Corporation to ask again that the Board take steps to update its Public Records Act Guidelines (<http://www.bof.fire.ca.gov/resources/praguidelines2015.pdf>), which appear to have been last updated in 2015, to conform to the recent Supreme Court decision in *City of San Jose v. Superior Court (Smith)* \_\_\_ Cal. \_\_\_ [S218066, Mar. 2, 2017] (attached for reference). In *City of San Jose*, the Supreme Court held "that when a city employee uses a personal account to communicate about the conduct of public business, the writings may be subject to disclosure under the California Public Records Act."

As noted in our November 7, 2016 comment letter to the Board, the Board's position has been that it "will not search any private or other state agency files/records" for disclosure of public records under the Act. This is contrary to the Public Records Act's mandates, as interpreted by the Supreme Court. "[T]here is no indication the Legislature meant to allow public officials to shield communications about official business simply by directing them through personal accounts." (*City of San Jose*, slip op. at p. 15.)

There are many individuals who conduct public business for the Board, including but not necessarily limited to the members of the Range Management Advisory Committee, the Professional Foresters Examining Committee, and the Certified Rangeland Manager Certification Panel, who do not have Board of Forestry email accounts but conduct public business through private accounts or accounts hosted by other federal or state agencies. The Supreme Court affirmed in *City of San Jose* that the "analysis ... appropriately focuses on the *content* of specific records rather than their location or medium of communication." (*Id.* at p. 17.) The Board cannot withhold from disclosure public records just because the records reside in a private or other agency account. Accordingly, we again request that the Board update its Public Records Act disclosure policies to conform to the requirements of the Public Records Act.

Thank you for your attention to this matter.

**Taiga Takahashi**

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