

1 KAILYN ELLISON (SBN 300644)
2 OFFICE OF ENFORCEMENT
3 STATE WATER RESOURCES CONTROL BOARD
4 P.O. Box 100
5 Sacramento, California 95812-0100
6 Telephone: (916) 445-9557
7 Facsimile: (916) 341-5896

8 Attorney for the Prosecution Team

9 BEFORE THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD –
10 CENTRAL VALLEY REGION

11 In the Matter of:)

12 CRUISER HAVEN, INC. AND)

13 DELTA WATERWAYS LLC)

14 Holland Riverside Marina)

15 Complaint R5-2016-0501)

SUBPOENA FOR RECORDS AND
DOCUMENTS
(California Water Code, §§ 1075, 1080,
California Government Code, § 11450.05
et seq.)

16 TO: **Mr. Kevin Hinman**
17 **P.O. Box 622**
18 **Knightsen, CA 94548**

19 **Mr. Kevin Hinman**
20 **7000 Holland Tract Rd.**
21 **Brentwood, CA 94513**

22 **NOTICE:**

- 23 () You are served as an individual.
24 () You are served as (or on behalf of) the person
25 doing business under the fictitious name
26 of
27 (X) You are served on behalf of: CRUISER HAVEN, INC.

1 Pursuant to the powers conferred by California Water Code Sections 1075 and 1080 and
2 Government Code Sections 11450.05 *et seq.*:

3 **CRUISER HAVEN, INC. IS ORDERED** to produce the papers, books, records and
4 documents in its possession or under its control described below in connection with the above-
5 titled proceeding on or before **FEBRUARY 24, 2016**. Documents must be sent to: Kailyn Ellison,
6 Attorney, Office of Enforcement, State Water Resources Control Board, P.O. Box 100,
7 Sacramento, CA 95812-0100.

8 You may seek the advice of an attorney in any matter connected with this subpoena. You
9 should consult your attorney promptly so that any problems concerning your production of
10 documents may be resolved within the time required by this subpoena.

11 **FAILURE TO COMPLY WITH THE COMMANDS OF THIS SUBPOENA WILL**
12 **SUBJECT YOU TO THE PROCEEDINGS AND PENALTIES PROVIDED BY LAW.**

13 **DEFINITIONS**

14 Definitions for industry or trade terms contained herein are to be construed broadly. Where
15 the industry or trade definition set forth herein does not coincide precisely with your definition, the
16 question, inquiry or production request should be responded to or answered by using the definition
17 which you apply and/or recognize in your usage of the term, further documenting your definition in
18 the response. Non-industry or non-trade definitions should be applied as defined herein.

19 (1) The terms "RELATING TO" or "RELATE TO" includes referring to, alluding to,
20 responding to, concerning, connected with, commenting on, in respect of, about, regarding,
21 discussing, showing, describing, mentioning, reflecting, analyzing, constituting, evidencing, or
22 pertaining to.

23 (2) (a) The term "DOCUMENT" means a document whose existence is known to
24 YOU, YOUR employees, superiors, representatives or assigns, regardless of its location or origin,
25 including the original and all non-identical copies, whether written, printed or recorded, including,
26 with limitations, contracts, agreements, leases, receipts, invoices, payment vouchers, purchase
27 orders, books, booklets, brochures, reports, notices, announcements, minutes and other
28 communications, including inter and intra-office communications, studies, analyses, maps, charts,
tables, questionnaires, indices, telegrams, messages (including reports of telephone conversations

1 and conferences), tapes, letters, electronic mail, notes, records, drafts, proposals, authorizations,
2 negotiations, canceled checks, financial statements, deposit slips, bank drafts, books of account,
3 summaries, reports, tests, projections, studies, charts, notebooks, worksheets, recordings, calendars,
4 or other materials which are written, recorded, printed, typed, or transcribed. "DOCUMENT" also
5 means data sheets or data processing cards, tapes, films or graphic matter or materials on computer
6 magnetic diskettes or tapes, electronically or magnetically-stored data (including data stored on
7 "hard," "floppy" or "micro-floppy" disks or data stored in data base systems), photographs,
8 videotapes or any other matter of any kind or nature however produced or reproduced and each
9 copy of any of the foregoing which is not identical because of margin notations or otherwise. If any
10 such documents were, but no longer are, in YOUR possession or control, state what disposition was
11 made of them and when.

12 (b) The term "DOCUMENT" shall also include all documents necessary to
13 interpret, translate, decode or understand any other document requested or produced. If a form of
14 document (i.e., magnetic tape) cannot be read, such form must be converted to a paper document
15 that can be read.

16 (3) The term "THE COMPANY" means CRUISER HAVEN, INC., its shareholders,
17 subsidiaries, divisions, affiliates, partnerships, predecessors, and all officers, employees, agents,
18 and representatives of the foregoing.

19 (4) The terms "AND" and "OR" have both conjunctive and disjunctive meanings.

20 (5) The terms "YOU" or "YOUR" refer to THE COMPANY.

21 (6) The term "FACILITY" means the property located at 7000 Holland Tract Road,
22 Brentwood, California 94513.

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2 **INSTRUCTIONS**

3 i. Unless otherwise indicated, the time period covered by this subpoena is from
4 January 1, 2011 to up to five days before YOUR full compliance with this subpoena. Any
5 documents RELATING TO this time period are to be produced, regardless of whether the
6 documents came into existence before or during this period.

7 ii. YOUR response to the subpoena should include a declaration or affidavit. It should
8 state that a diligent search for all requested DOCUMENTS has been conducted and that the affiant
9 or declarant was in charge of the search or otherwise monitored and reviewed the search
10 sufficiently to be able to represent under oath that such a search was conducted. It should be signed
11 under oath by the person most knowledgeable about the DOCUMENTS and YOUR efforts to
12 comply with the subpoena. If different people are the most knowledgeable about portions of the
13 search (e.g., one person is most knowledgeable about DOCUMENTS contained in computer media
14 and a different person is most knowledge about DOCUMENTS contained on paper) each should
15 sign an affidavit or declaration identifying the category in the request for DOCUMENTS for which
16 that person is the most knowledgeable.

17 iii. Unless otherwise indicated, for any DOCUMENT stored in a computer, including
18 all electronic mail messages, YOU should produce the DOCUMENT in the original electronic file
19 format in which it was created (e.g., Microsoft email should be provided in its original format,
20 which would have the .pst suffix, not in a tif file; spreadsheets should be in their original file form,
21 such as an Excel file and word-processed DOCUMENTS should be in their original file format,
22 such as a Word or WordPerfect file), together with instructions and all other materials necessary to
23 use or interpret the data. Electronic mail messages should be provided, even if only available on
24 backup or archive tapes or disks. Computer media should be accompanied by (a) an identification
25 of the generally available software needed to open and view the DOCUMENTS or (b) a copy of the
26 software needed to open and view the DOCUMENT. Note, however, that if a print-out from a
27 computer DOCUMENT is a non-identical copy of the electronic form in which it was created
28 (non-identical as described in the definition of "DOCUMENT," by way of example, but not
limitation, because it has a signature, handwritten notation, or other mark or attachment not

1 included in the computer DOCUMENT), both the electronic form in which the DOCUMENT was
2 created and the original print-out should be produced.

3 iv. For each DOCUMENT contained in an audio or video medium, YOU should
4 provide both the tape, disk or other device from which the audio or video can be played and the
5 transcript of the DOCUMENT.

6 v. For all DOCUMENTS YOU do not produce in the original, as defined in Evidence
7 Code section 255, YOU may submit copies (black and white copies if the original was in black and
8 white, color copies if the original was in color, and, if the original was in electronic format, in the
9 same electronic medium as the original) in lieu of original DOCUMENTS provided that such
10 copies are accompanied by an affidavit of an officer of THE COMPANY stating that the copies of
11 all three types of DOCUMENTS are true, correct, and complete copies of the original
12 DOCUMENTS. If there is in YOUR possession, custody or control no original, but only a copy or
13 photographic record thereof, then YOU should produce a true and legible copy of each such
14 DOCUMENT. The accompanying affidavit should state that the DOCUMENT is only a copy or
15 photographic record and not the original.

16 vi. If a DOCUMENT is responsive to this subpoena and is in YOUR control, but is not
17 in YOUR possession or custody, in addition to obtaining and producing the DOCUMENT, identify
18 the person who had possession or custody of the DOCUMENT, their telephone number and current
19 business and residence addresses.

20 vii. If any DOCUMENT subpoenaed is no longer in YOUR possession, custody, control
21 or care, YOU should provide a written statement identifying the DOCUMENT with specificity,
22 stating whether it is lost or missing, has been destroyed, has been transferred to others, or has
23 otherwise been disposed of. The written statement should also identify the person who disposed of
24 the DOCUMENT, explain the circumstances and authorization for the disposition and the
25 approximate date of the disposition of the DOCUMENT. If there are no DOCUMENTS responsive
26 to a document request, as to each such document request, YOU should include a statement to that
27 effect in the accompanying declaration or affidavit.

28 viii. DOCUMENTS provided in response to this subpoena should be complete and,
unless privileged, unredacted, submitted as found in YOUR files (*e.g.*, DOCUMENTS that in their

1 original condition were stapled, clipped, attached as a "post-it," or otherwise fastened together shall
2 be produced in the same form).

3 ix. Each DOCUMENT produced pursuant to this subpoena should be identified
4 according to the category in the subpoena to which it is responsive. In lieu of indicating on each
5 DOCUMENT the category to which it is responsive, on the date set for production, YOU may
6 instead provide an index if YOU provide it in both paper and in electronic form (such as a
7 computerized spread sheet in Excel or a Word or WordPerfect DOCUMENT set up in a table
8 format) of all DOCUMENTS YOU produce, as long as this index shows by document control
9 number the request(s) to which each DOCUMENT or group of DOCUMENTS is responsive.
10 Responsive DOCUMENTS from each person's files should be produced together, in one box or in
11 consecutive boxes, or on one disk or consecutive disks. Mark each page of a paper DOCUMENT
12 and each tangible thing containing audio, video, computer or other electronic DOCUMENTS (e.g.
13 cassette, disk, tape or CD) with corporate identification and consecutive document control numbers
14 (e.g., S.I. 00001, S.I. CD 001, S.I. audio tape 001). Number each box of DOCUMENTS produced
15 and mark each with the name(s) of the person(s) whose files are contained therein, the requests(s)
16 to which they are responsive, and the document control numbers contained therein.

17 x. For data produced in spreadsheets or tables, include in the declaration or affidavit
18 the identification of the fields and codes and a description of the information contained in each
19 coded field.

20 xi. The document requests contained in this subpoena should be deemed to include a
21 request for all relevant DOCUMENTS in the personal files, including but not limited to files
22 contained on laptops, palm devices, home computers and home files of all YOUR officers,
23 employees, accountants, agents and representatives, including sales agents who are independent
24 contractors, and unless privileged, attorneys.

25 xii. If any DOCUMENTS are withheld from production based on a claim of privilege,
26 provide a log under oath by the affiant or declarant, which includes each DOCUMENT'S authors,
27 addressees, date, a description of each DOCUMENT, all recipients of the original, and any copies,
28 and the request(s) of this subpoena to which the DOCUMENT is responsive. Attachments to a
DOCUMENT should be identified as such and entered separately on the log. For each author,

1 addressee, and recipient, state the person's full name, title, and employer or firm, and denote all
2 attorneys with an asterisk. To the extent the claim of privilege relates to any employee, agent,
3 representative, or outside attorney, identify the person's name, division, and organization. Include
4 the number of pages of each DOCUMENT and in the description of the DOCUMENT, provide
5 sufficient information to identify its general subject matter without revealing information over
6 which a privilege is claimed. For each DOCUMENT withheld under a claim that it constitutes or
7 contains attorney work product, also state whether YOU assert that the DOCUMENT was prepared
8 in anticipation of litigation or for trial and, if so, identify the anticipated litigation or trial on which
9 the assertion is based. Submit all non-privileged portions of any responsive DOCUMENT
10 (including non-privileged or redactable attachments) for which a claim of privilege is asserted
11 (except where the only non-privileged information has already been produced in response to this
12 instruction), noting where redactions in the DOCUMENT have been made. DOCUMENTS
13 authored by outside lawyers representing YOU that were not directly or indirectly furnished to
14 YOU or any third-party, such as internal law firm memoranda, may be omitted from the log.

15 xiii. Whenever necessary to bring within the scope of this subpoena DOCUMENTS that
16 might otherwise be construed as outside its scope:

17 (a) the use of the verb in any tense shall be construed as the use of that verb in all
18 other tenses;

19 (b) the use of a word in its singular form shall be deemed to include within its use
20 the plural form as well; and

21 (c) the use of the word in its plural form shall be deemed to include within its use
22 the singular form as well.

23 xiv. Whenever responsive DOCUMENTS apply to more than one site, such
24 DOCUMENTS shall be organized by address of the site.
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2 DOCUMENTS TO BE PRODUCED

3 This subpoena commands production of the original of each and every DOCUMENT now
4 or at any time in the possession, custody or control of THE COMPANY without regard to the
5 person(s) by whom or for whom said DOCUMENTS were prepared, including, but not limited to,
6 all DOCUMENTS in the personal, business, or other files of all present or former officers,
7 directors, trustees, agents, employees, attorneys, and accountants of THE COMPANY, which refers
8 or relates to any of the following subjects:

- 9 (1) Provide the articles of incorporation for THE COMPANY, including all versions
10 and amendments.
- 11 (2) Provide all rental and/or lease agreements for property owned, operated, or occupied
12 by THE COMPANY for the past three (3) years.
- 13 (3) Provide all signed federal and state tax returns and all associated schedules for THE
14 COMPANY for the tax years 2012, 2013, and 2014.
- 15 (4) Provide all DOCUMENTS which refer or RELATE to the current value of any real
16 property owned by THE COMPANY, including, but not limited to, assessment records,
17 appraisals less than two years old, market trends, and economic conditions.
- 18 (5) Provide all DOCUMENTS which refer or RELATE TO any sales or acquisitions of
19 real property owned by THE COMPANY.
- 20 (6) Provide all DOCUMENTS which refer or RELATE TO liens against any real
21 property owned by THE COMPANY.
- 22 (7) Provide all DOCUMENTS which refer or RELATE TO all loans to and from THE
23 COMPANY.
- 24 (8) Provide all DOCUMENTS which refer or RELATE TO any credit lines to THE
25 COMPANY.
- 26 (9) Provide all DOCUMENTS which evidence, RELATE TO, or describe THE
27 COMPANY'S financial condition, solvency, or ability to timely pay debts.
28

- 1 (10) Provide all DOCUMENTS which refer or RELATE TO THE COMPANY'S
2 revenue for 2014 and 2015, including, but not limited to, revenue generated from THE
3 FACILITY.
- 4 (11) Provide all DOCUMENTS which refer or RELATE TO THE COMPANY'S
5 operating costs, including, but not limited to, operating costs for labor, electricity, water,
6 any and all utilities, fuel and lubrication, machinery repairs, maintenance, and rental
7 equipment.
- 8 (12) Provide all DOCUMENTS which refer or RELATE TO cash overhead costs,
9 including, but not limited to, office expenses, managers, property taxes, liability
10 insurance, property insurance, any and all insurance coverage, and investment repairs.
- 11 (13) Provide all DOCUMENTS which refer or RELATE TO non-cash overhead costs,
12 including, but not limited to, buildings and equipment.
- 13 (14) Provide all DOCUMENTS which refer or RELATE TO depreciation schedules for
14 all assets related to the operation of THE FACILITY.
- 15 (15) Provide all DOCUMENTS which refer or RELATE TO fees charged to boaters to
16 pump out wastewater tanks at THE FACILITY.
- 17 (16) Provide all DOCUMENTS which refer or RELATE TO monies made from fees
18 charged to boaters to pump out wastewater tanks at THE FACILITY.

19 Given under my hand this 25 day of January 2016.

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22 Kailyn Ellison
23 Attorney for the Prosecution Team
24 Office of Enforcement
25 State Water Resources Control Board
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