



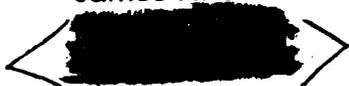
**SMUD**

SACRAMENTO MUNICIPAL UTILITY DISTRICT □ P. O. Box 15830, Sacramento CA 95852-1830, (916) 452-3211  
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

LEG 99-0786

July 14, 1999

James N. Saum



EX [redacted]  
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**Re: Request to Access Site and Remove Personal Effects**

Dear Mr. Saum:

This letter is my initial response to your July 13, 1999 (copy enclosed) letter requesting that you be granted access to your work area in order to collect and remove your personal belongings and certain documents and records which you "require . . . [i]n order to defend" yourself in support of your various grievances and complaints.

Initially, please understand that prior to allowing you to visit the work site and reclaim any of your belongings, the District will need to make arrangements to have you escorted and supervised at all times while on site. Further, we will need to coordinate the schedules of those who will need to be present to oversee the retrieval of your personal belongings and make determinations concerning the release of any documents you seek. The District will be represented by legal counsel during your site visit to retrieve your personal effects. It is my understanding that Mark Merin of the Dickstein and Merin law firm no longer represents you. Have you retained new legal counsel and, if so, will your new attorney be present when you visit the Rancho Seco site to retrieve your personal effects?

The identity of your personal belongings such as photos, coffee cups, articles of clothing, etc., should be self-evident and such items will be returned without question. However, your July 13, 1999, letter is very vague, ambiguous and uncertain in its description of the documents and computer files which you believe the District is obligated to provide you. Additionally, I ask that you define exactly what you mean when you refer to "personal documents." I am quite certain that we will not likely agree about which documents are "personal."

Under District policy, all documents and records generated by its employees during the performance of their jobs as SMUD employees are the sole property of the District. This includes both paper ("hard copy") documents and electronically stored data. (Copy of SDP 4.3.4, "Electronic Communication Policy," enclosed.) Under District Policy, all data, in any format, stored on District owned computer systems is owned by the District and employees have *no expectation of*

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*privacy* in any materials or data stored thereon. On April 24, 1997, you signed a form acknowledging receipt of this policy and agreeing to its terms. (Copy enclosed.) While I can appreciate your concern over the confidentiality of certain documents you may have stored electronically, in light of the policy, when you stored them on District owned computer systems, you essentially gave them to the District and waived your right to claim that such documents are "private" or "confidential."

The District is willing to work with you to provide you copies of certain non-confidential documents, which are relevant to the issues you have raised. However, the District is not going to provide you with unfettered access to rummage through District files and computer systems on what amounts to no more than a "fishing expedition." Before I can intelligently respond to your request, you will need to provide me with much greater identification of the specific documents you are requesting. Providing that you do not seek copies of safeguards, confidential or privileged materials and that your request is not unduly burdensome, the District will attempt to accommodate your request and provide you with copies of documents which are relevant to your complaints and/or grievances. However, as discussed below, the District would prefer that you seek to achieve the same result by following proper discovery methods and working through the agencies with which you have filed your complaints. We make this request in an attempt to ensure that discovery is orderly, some modicum of control over the process is maintained and confusion as to which documents have been produced and to whom is avoided.

Additionally, based on your July 13, 1999, letter I do not agree there are exigent circumstances present which warrant that "immediate" access be granted as requested. You appear to seek access to SMUD documents for the dual purpose of: (1) pursuing the administrative complaints you filed with the California Labor Commissioner ("CA-LC"), U. S. Department of Labor ("USDOL") and the U. S. Nuclear Regulatory Commission ("NRC"); and (2) defending yourself against the disciplinary charges brought against you.

With regard to the administrative complaints, the District fully cooperated with the CA-LC while it was investigating your complaint by meeting with the investigator to address their questions, providing written responses to their follow-up questions and providing copies of numerous documents that the CA-LC requested of the District on multiple occasions. The CA-LC matter was dismissed on May 12, 1999, after the Labor Commissioner determined that there was insufficient evidence to support the complaint. As far as the District is aware, the CA-LC matter is now closed and you, therefore, have no current need to access District documents related thereto.

The NRC recently completed its investigation and a decision is pending their review and consideration. During the investigation the District fully cooperated with the NRC by making employees available for interviews, arranging interviews with former employees and retirees and providing the NRC copies of all documents they wished to

review. Since the investigation phase of the NRC complaint process appears to be concluded, you have no current need to access District documents related thereto. However, the District will continue to fully cooperate with the NRC should they re-open the investigation and make additional document production requests of the District.

The USDOL has informed the District that it is about to commence its investigation into the complaint you filed with that agency. It is my understanding that you have already provided them with ample documentation which you allege supports your complaint. The District has also provided the USDOL with copies of a significant number of documents related to the complaint. I suggest that if you would like the USDOL to review additional District documents that you have not yet provided to them, you should discuss it with the USDOL investigator and, as with the CA-LC and the NRC, the District will cooperate to ensure that the USDOL investigator is provided access to any District documents she wants to review.

Attached to General Manager Jan Schori's July 8, 1999, letter notifying you of your termination from District employment (GM 99-230; which you received by certified mail on July 12, 1999) were copies of all of the documents upon which your discharge was based. As stated in her letter, you have the right, at your sole option, to meet with Ms. Schori prior to the effective date of your discharge to respond to the charges against you and explain why you believe you should not be discharged. This is a due process hearing. If you exercise this right, you will meet informally (it is not an evidentiary hearing) with Ms. Schori so that you can tell her your side of the story.

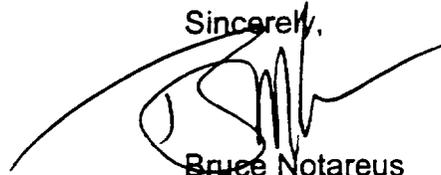
Ms. Schori also provided you with a copy of SDP 606-12, which gives you the right to file a grievance over your discharge within five days after your termination becomes effective. Both California law and District policy provide employees the opportunity to have certain of their grievances heard in a post-termination hearing. If you elect to file a grievance under SDP 606-12, a full evidentiary hearing will be scheduled for a future date. This is an administrative hearing at which the rules of evidence apply, physical evidence is presented and witnesses take an oath to testify under the penalty of perjury and are subject to cross-examination by adverse parties. Hearings of this type are stenographically recorded. In preparation for this hearing, you will be permitted limited discovery, enabling you to request and receive copies of District records which are relevant to the issues raised.

I see no need to recommend that Ms. Schori extend the effective date of your discharge as you have requested. You are certainly free to ask her to do so, if you desire. Please let me know whether or not you would like me to make arrangements for you to come in to collect your personal effects sometime this week or next. If you decide to pursue discovery of District documents outside official channels as discussed above, please provide me with a more detailed list or description of the specific documents or classes of documents you seek so that I can respond to your request on

behalf of the District and thereafter work out the terms and conditions of any subsequent document production.

If you or your attorney (if you have retained new counsel) would like to discuss these matters further, please feel free to contact me at (916) 732-6122. Thank you.

Sincerely,



Bruce Notareus  
Senior Attorney

/dm

Enclosures

cc: Dana Appling  
Philip Joukoff, NRC  
Rossana Nardizzi, USDOL  
Corporate Files