SOQUEL CREEK WATER DISTRICT
GUIDELINES FOR ACCESS TO PUBLIC RECORDS

1. Public Records Access Guidelines

In accordance with the California Public Records Act, Government Code Section 6250 et seq.; Title 17, California Code of Regulations, Section 91000 et seq.; and Article I, Section 3 of the California State Constitution, the Soquel Creek Water District (SqCWD) makes public records available to the public upon request. The SqCWD has established the following guidelines to ensure that members of the public fully understand and are afforded the opportunity to use their constitutional right to review and obtain copies of public records. A copy of these guidelines will be posted in the lobby of the SqCWD Main Office and on the District’s web site, and a copy of these guidelines will be provided free of charge upon request.

2. Definition of Public Records

“Public Records” includes any writing containing information relating to the conduct of the public’s business prepared, owned, used or retained by the SqCWD regardless of physical form or characteristics and which are not exempt from disclosure (see Section 6.).

3. How to Obtain Access to a Public Record

Requests to review or receive a copy of a public record should be directed to the SqCWD Executive Assistant/Board Clerk. Except with respect to public records exempt from public disclosure by express provisions of the law, SqCWD staff will respond to public records requests at the earliest opportunity, but in the event that a response is going to take longer than expected, the requesting party must be notified, in writing, within 10 days of receipt of the original request, of the approximate amount of time that will be required to provide the information requested. Public records shall be made available to any person upon payment of fees covering direct costs of duplication (see Section 5.). A written request is not required to review or obtain a copy of a public record but is available (see attached form) to enable SqCWD staff to more readily accommodate the request, especially if it is complex. A written request, which is not submitted on the District’s form, should describe the requested records as clearly as possible. The request should include a telephone number where the person requesting the record can be reached in the event that the request needs clarification. The SqCWD will make every effort to assist the requestor in identifying records and information that are responsive to the request or to the purpose of the request. Written requests should be addressed to: Soquel Creek Water District, Executive Assistant/Board Clerk, P.O. Box 1550, Capitola, CA 95010 or faxed to (831) 475-4291.
4. When Public Records May be Reviewed

It is the policy of the SqCWD that public records shall be available for review with the least possible delay and expense to the requesting party. However, the review of public records is subject to a rule of reason as to time and duration and must be consistent with the efficient functioning of our offices. Any person who wishes to review public records is requested to telephone the SqCWD Executive Assistant/Board Clerk in advance and make an appointment to review the records. SqCWD staff will be available to assist the requestor during the appointed review time. The requestor will be provided with the records and a workspace. SqCWD staff will ensure that no records are removed or altered. If the requestor asks for copies of certain records, the SqCWD Executive Assistant/Board Clerk will arrange for the copies to be made and notify the requestor of the cost prior to duplication. Public records are open to review during SqCWD office hours: 8:00 a.m. – noon and 1:00 – 5:00 p.m., Monday through Friday, except District holidays. Failure to make an appointment in advance may result in a delay due to Staff availability and the time required to locate the requested records.

5. Fees for Public Records

There is no charge to access public records for review; however, a request for a copy of an identifiable public record or information produced therefrom must be accompanied by payment of fees to cover the direct costs of duplication.

**Photocopies:** There is no charge for copies totaling less than 10 pages. For 10 or more pages, the photocopying fee is $.15 per standard reproduced one-sided page and $.25 per standard reproduced double-sided page for all pages, including the first nine (9). Any request requiring duplication of more than 25 pages will be based on actual costs incurred by SqCWD in sending records to an outside photocopy service for duplication. All photocopies will be double-sided unless the original is in a bound format.

**Electronic Copies:** If the records are contained in a form other than hard copies, i.e., computer CD, diskette, cassette or videotape, duplication costs will be based on actual costs incurred by SqCWD in sending records to the appropriate outside vendor for duplication. The SqCWD will determine the form in which any requested computer data will be provided.

6. Records Exempt from Public Disclosure

In balancing the public’s right to access public records with the recognized individual right of privacy and the need for public agencies to be able to competently perform their duties, the Legislature has established certain categories of records which may be exempt from public disclosure.

A complete list of statutory exemptions is found in the California Public Records Act, Government Code Section 6254 and 6275 et seq. Some that are relevant to SqCWD records include:
a. Preliminary drafts, notes, or inter-agency/intra-agency memoranda which are not retained by the SqCWD in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

b. Records pertaining to pending litigation to which the SqCWD is a party, or to claims made pursuant to Government Code Division 3.6 (commencing with Section 810) until such litigation or claim has been finally adjudicated or otherwise settled;

c. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

d. Geological data, plant production data and similar information relating to utility systems development, which are obtained in confidence from any person;

e. Information regarding individual services that, if released, would violate customer privacy (e.g. location of service, usage history, payment records, etc.);

f. Test questions, scoring keys, and other examination data used to administer a licensing examination for employment or academic examination;

g. The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision;

h. Records of which the disclosure is exempt or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege;

i. Proprietary software programs developed specifically for the SqCWD or water system design information (e.g. Geographic Information Systems, computer models, engineering documents, location of water facilities, etc.) which could be used to breach water system security, or altered to misrepresent information, or utilized for profit will not be released without the prior authorization of District Legal Counsel and execution of a license agreement or similar document certifying the reason for the release of this information to the requestor and restrictions on the requestor’s use of the information. In some cases, the District is prohibited by licensing agreements from providing copies of proprietary software.

In addition, the Act also bestows a local agency (SqCWD) with the discretion to claim an exemption from public disclosure for records, which do not qualify for a specific exemption under the California Public Records Act, if it is determined by the SqCWD that the public interest served by not making the record public clearly outweighs the public interest served by disclosure, pursuant to Government Code Section 6255. Any notification of denial of any request for records will include the names and titles or positions of each person responsible for the denial. While the SqCWD will disclose identifiable and existing records, the SqCWD is not required to synthesize, manufacture, or summarize records, i.e., develop new records in response to a request.

In the event that there is a question as to whether records are exempt from disclosure, the SqCWD shall, within 10 days from receipt of the request, determine whether the
request, in whole or in part, seeks copies of discloseable public records in the possession of the SqCWD and shall promptly notify the requestor of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the General Manager of the SqCWD or his/her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected. No notice shall specify a date that would result in an extension of more than 14 days. In addition, if there is a large amount of material to compile, or there is a question regarding the status of the requested records, the requestor will be notified by SqCWD staff of the approximate time frame involved in filling the request. (“Unusual circumstances” as used in this section is defined in the California Public Records Act, Government Code Section 6253 et seq.)

7. Process to Challenge the SqCWD's Determination Not to Disclose Certain Records

If the SqCWD has declined to provide access to requested records because the records are deemed confidential for purposes of Title 17, California Code of Regulations Section 91020 et seq., the requester should follow the process set forth in Title 17, California Code of Regulations Section 91022. Additionally, the California Public Records Act, Government Code Section 6258, provides that any person may seek injunctive or declarative relief in any court of competent jurisdiction to enforce the right to inspect or to receive a copy of any public record.

8. Procedure for Lending Reports and Other Material

Reports and studies that have been received by the SqCWD Board of Directors can be checked out with a refundable cash deposit in an amount equivalent to the duplication cost of the report or study, provided there are multiple copies available. The report or study must be returned in the same condition within two weeks from the date that it is checked out. The requestor is responsible for requesting an extension if the report will not be returned by the due date. If the report is not returned or it is damaged or defaced, the requestor will forfeit the deposit. If only the Permanent File Copy of the report or study remains, a requestor may review the Permanent File Copy at the SqCWD office or may request that a copy be made. The charge for copying will be based on actual costs incurred by SqCWD to duplicate the report in its entirety.

Other materials such as videos or dvds may be checked out on the same basis described above; however, duplication of some materials may not be possible.

Board Approved: March 6, 2007