From: Linda Sutter <l_sutter@yahoo.com>
Sent: Friday, October 16, 2026 4:30 PM
To: Mike Rademaker <mrademaker@ccharbor.com>; Rick Shepherd <rshepherd@ccharbor.com>; John Evans <jevans@ccharbor.com>; Gerhard Weber <gweber@ccharbor.com>; Annie Nehmer <anehmer@ccharbor.com>; Dan Schmidt <dschmidt@ccharbor.com>
Cc: Katherine Micks <kmicks@co.del-norte.ca.us>; bryan.anguiano@usda.gov <bryan.anguiano@usda.gov>; pidpgrants@dot.gov <pidpgrants@dot.gov>; stac@caloes.ca.gov <stac@caloes.ca.gov>; Albert Sim <asim@sco.ca.gov>; Mike Bahr <mike.bahr@cssgrants.org>
Subject: CRESCENT CITY HARBOR DISTRICT, CA. CEASE AND DESIST, CURE AND CORRECT

CEASE-AND-DESIST & CURE-AND-CORRECT DEMAND Under Ca. Gov Code 54960.1

Ralph M. Brown Act (Gov. Code §§ 54950–54963) California Public Records Act (Gov. Code §§ 7920.000 et seq.)

Date: October _16, 2026 **To:** Crescent City Harbor District Board of Harbor Commissioners
Attn: Chair Rick Shepherd, John Evans, Secretary Gerhard Weber, Annie Nehmer, Dan Schmidt, Harbormaster Michael Rademaker, 101 Citizens Dock Road Crescent City, CA 95531
Re: Demand to Cure and Correct Brown Act Violations and CPRA Violations — October 14, 2026 Board Meeting; Resolution No. 2026-18

To the Board of Harbor Commissioners:
I am submitting this formal Cease-and-Desist and Cure-and-Correct Demand pursuant to Gov. Code §§ 54954.3, 54960, and 54960.1, regarding multiple violations of the Ralph M. Brown Act and the California Public Records Act (CPRA) that occurred during the Crescent City Harbor District's October 14, 2026 meeting, specifically relating to the adoption of Resolution No. 2026-18.
This demand also places the Board on notice that these violations constitute repeat misconduct, following the Harbor District's July 2024 Brown Act settlement with me, in which the District formally agreed in writing that it would no longer violate the Brown Act. That case was dismissed without prejudice, preserving my right to enforce future violations — including the violations committed on October 14, 2026.
I. BROWN ACT VIOLATIONS
1. The Board unlawfully denied public comment on a distinct agenda item
During the October 14, 2026 meeting, the Board permitted public comment on three components of Resolution 2026-18 but prohibited public comment on the fourth component — the adoption of the amended Records Management Handbook and Retention Schedule, including the delegation of unilateral authority to the CEO/Harbormaster to destroy District records.
This violates:

- **Gov. Code § 54954.3(a) — The public must be allowed to comment on *each* agenda item before or during consideration.**
- **Gov. Code § 54954.3(c) — Agencies may not prohibit public criticism of policies, procedures, or acts of the legislative body.**

The Board's selective suppression of comment on the records-destruction authority constitutes constructive suppression of public participation, which courts have held violates the Brown Act (see *Galbiso v. Orosi Public Utility District*, 167 Cal.App.4th 1063).
2. The Board improperly bundled four unrelated actions into a single vote to evade public comment
Resolution 2026-18 combined four separate actions:
"(1) adopting the Finance & Administration Manual… (2) approving the Standard Form Professional Services Agreement… (3) confirming the Kimley-Horn Agreement…
(4) approving the amended Records Management Handbook and Retention Schedule, and authorizing the disposition of District records…"

Bundling unrelated actions is not per se illegal — unless the bundling is used to prevent public comment on a specific action. That is exactly what occurred.

The Board's refusal to allow comment on the fourth item — the one with the greatest public impact — is a Brown Act violation.

II. CPRA VIOLATIONS

Resolution 2026-18 includes the following language:

"The CEO/Harbormaster… is hereby authorized to destroy or dispose of District records… without further action of the Board."

This violates CPRA because:

1. Gov. Code § 7920.530 prohibits destruction of records subject to a CPRA request.

The Board adopted a policy allowing unilateral destruction without any safeguard requiring the CEO/Harbormaster to check for pending CPRA requests.

2. Gov. Code § 60201(d) prohibits destruction of certain categories of records.

The resolution acknowledges these categories but then delegates destruction authority without requiring Board oversight or verification.

3. Gov. Code §§ 7922.000–7922.530 require preservation of records relevant to audits, investigations, or litigation.

The resolution's destruction authority contains no litigation-hold or audit-hold protections.

4. The Board's refusal to allow public comment on a CPRA-related policy change violates Gov. Code § 54954.3.

III. DEMAND TO CURE AND CORRECT

Pursuant to Gov. Code § 54960.1, I hereby demand that the Crescent City Harbor District:

1. Vacate and nullify Resolution No. 2026-18 in its entirety, or at minimum:

- **Vacate Article V, including Sections 5.1 through 5.6, relating to the Records Management Handbook and the delegation of destruction authorized by Harbormaster Rademaker.**

2. Refrain from destroying any District records until the Board lawfully re-considers the matter in compliance with the Brown Act and CPRA.

3. Issue a written public acknowledgment of the violations and the corrective actions taken.

IV. NOTICE OF INTENT TO SEEK JUDICIAL RELIEF

If the Board does not cure and correct these violations within 30 days, as required by Gov. Code § 54960.1(c), I will pursue all available remedies, including:

- **Petition for writ of mandate in Del Norte County Superior Court**
- **Brown Act enforcement action**
- **CPRA enforcement action**
- **Referral to the California State Auditor**
  - Referral to **Cal OES**, **MARAD**, and the **State Coastal Conservancy** (grant-funding agencies)
  - Referral to the **Del Norte County Civil Grand Jury**
  - Referral to the **California Attorney General, Open Government Section**

All agencies listed above **will be notified** of the violations and provided copies of this demand.

V. CEASE-AND-DESIST DEMAND

Under Gov. Code § 54960, you are hereby ordered to:

- **Cease and desist from enforcing Article V of Resolution 2026-18;**
- **Cease and desist from delegating unilateral records-destruction authority;**

- **Cease and desist from denying public comment on any agenda item.**

VI. Request for Written Response

Please provide a written response within **30 days**, as required by law. If the District does not answer this Cure and Correct within 30 days, you are hereby notified litigation will follow. Lastly, do not under any circumstances destroy any documents, communications under ring central, emails to and from all commissioners, USDA, MARAD, CAL. CONSERVANCY, MIKE BAHR, COUNTY or other entities.

Sincerely,

Linda Sutter

Harbor Commissioner Candidate

On Monday, October 19, 2026 at 06:24:39 AM PDT, Mike Rademaker <mrademaker@ccharbor.com> wrote:

Ms. Sutter,

Thank you for taking the time to explain your concerns. I hope the following clarification will provide reassurance, particularly regarding the preservation of records subject to pending California Public Records Act (CPRA) requests or litigation holds. CCHD Resolution No. 2026-18 and the CCHD Records Management Handbook and Retention Schedule adopted on October 14, 2026 expressly include safeguards protecting those records, as well as protections for records relating to pending claims and many other records required by statute to be preserved.

The CEO/Harbormaster cannot override those protections using delegated authority, nor through any other means. The handbook also requires confirmation, before records may be destroyed, that the records are not subject to any pending CPRA request, litigation hold, or other applicable preservation requirement. Because these safeguards appear in several sections, I thought it would be helpful to list the relevant provisions together here for your convenience, and explain how they address your concerns. I have also attached the complete Resolution No. 2026-18 and the accompanying Records Management Handbook and Retention Schedule so you can review these provisions in their full context

If you feel that this responsive email does not adequately address all of the points raised in your original email, I welcome any additional information you may want to supply that would assist the District's review of your concerns. This email is not the Harbor District's definitive response to your demand and does not communicate a Board determination as to whether it is necessary to cure or correct any challenged Board action.

Also, I noticed that you included many other local, state, and federal offices in your email, presumably because you consider your concerns extremely important. If you are comfortable doing so, I would appreciate the opportunity to work through questions about the District's documents directly with you and District Counsel before involving a broader group of email recipients. That may help us clarify the relevant provisions promptly and avoid burdening multiple external offices to spend time reviewing questions that we may be able to resolve

through a direct exchange. I think those external offices would appreciate us avoiding their involvement at this preliminary stage.

Records Management Concerns

To start, Section 5.3 of Resolution# 2026-18 expressly excludes protected records from destruction, including records subject to pending claims, litigation, litigation holds, audits, investigations, CPRA requests, or applicable federal or state award retention or access requirements.

The Records Management Handbook and Retention Schedule amended on October 14, 2026 supplies further safeguards. Page 13 requires confirmation, before any record is destroyed, that the applicable retention period has expired and that the record is neither protected nor subject to a pending claim, litigation, litigation hold, audit, investigation, CPRA request, or federal award retention or access requirement. This directly addresses your concern that the policy contains no requirement to check for pending CPRA requests or litigation holds.

Page 13 of the Handbook also identifies protected categories, including records concerning pending litigation and certain settlements; records subject to pending public-records requests; and many other categories subject to specified retention requirements. It further provides that records should not be disposed of before they have served their administrative, legal, or financial purpose.

Page 10 separately prohibits destruction of federal award records while an audit, monitoring or compliance review, litigation, claim, investigation, or other matter involving those records remains unresolved.

Page 14 expressly prohibits deleting, revising, or purging communications documenting grant related matters, compliance actions, audit or monitoring matters, litigation holds, or other information required to be retained by law, a funding agreement, or District policy. Those protections apply to covered electronic communications as well as other records.

For reference, Government Code section 7920.530 defines public records. The provision specifically restricting a special district's destruction of records subject to pending CPRA requests is section 60201(d)(5). Section 60201(b)(2) provides a procedure for adopting and complying with a records retention schedule and standard destruction protocol.

In order to assist the District's review, it would be helpful if you could explain which specific provision of the handbook and retention schedule you believe permits destruction contrary to these legal restrictions, or which additional safeguard you believe is legally required.

With regard to your concern that the CEO/Harbormaster's authority is "unilateral," section 5.4 of Resolution# 2026-18 delegates implementation of the Board-adopted handbook, retention schedule, and destruction protocol without requiring another Board vote for each authorized disposition. It does not permit the CEO/Harbormaster to disregard the requirements of the Handbook or Resolution 2026-18, or independently establish different retention rules. The Board retains policy control which the CEO/Harbormaster must follow faithfully.

Section 5.6 of Resolution# 2026-18 requires Board approval by further resolution for material amendments to the retention schedule. Administrative corrections require District Counsel's concurrence and cannot materially alter record categories, retention periods, or the destruction protocol. Section 1.4 also directs a new, more comprehensive Board review of the Handbook during 2027.

The delegation to the CEO/Harbormaster consequently operates within continuing Board authority and specific policy constraints. This reflects an extremely common governance structure in which a governing board establishes policy and delegates its day-to-day implementation to a chief executive, subject to applicable law and board established limits on that delegation.

Public Comment Period Concerns

Regarding public comment, my review of the October 14 meeting recording did not identify any instance in which you or another member of the public was prohibited from discussing the Records Management Handbook or another component of the resolution.

During consideration of agenda item #4 (*Review and discuss seawall and Citizens Dock Pier 1 funding and timeline. Receive reports from Community System Solutions and Kimley-Horn*), Chair Shepherd briefly interrupted your remarks to express concern. This was because your discussion of the Kimley-Horn professional services agreement appeared to go beyond what was listed for agenda item #4. That professional services agreement was actually listed for discussion as part of agenda item #5 (*Consider and adopt Resolution No. 2026-18...*).

Regardless, after the brief interruption, you were permitted to continue addressing the professional services agreement without any reduction in your allotted comment time. Our review of the recording indicates that you completed your remarks and were not prevented from discussing any of the concerns you wished to raise.

You may review the October 14, 2026 Board meeting recording here:
https://www.ccharbor.com/files/77fdce97d/CCHD+Board+2026.10.14+%28Regular%29.mp3
You began speaking on agenda item #4 at approximately 1:00:45 (one hour and 45 seconds into the meeting). You were interrupted by Chair Shepherd at approximately 1:02:28, and you resumed speaking freely at 1:02:48, and concluded your remarks for agenda item #4 at approximately 1:03:27.

A separate public comment period was then provided for agenda item #5, during which you were permitted to address the subjects you wished without any restriction. The recording shows that your remarks began at 1:27:25 and concluded at 1:31:18, which was an elapsed period of 3 minutes and 53 seconds, exceeding the customary three-minute comment period by 53 seconds.

If you believe the recording demonstrates that any discussion was prohibited, it would be helpful if you would identify the relevant timestamp, the specific statement or action taken by the Board that you contend restricted comment, and the subject you were prevented from addressing.

It is also relevant to consider that the consolidated agenda item #5 that was on the October 14th agenda involved matters already considered at the previous September 30th Board meeting, when separate public comment was received.

At the September 30 meeting, the proposed revisions to the Finance and Administration Manual, professional services agreement, and Records Management Handbook were considered as separate agenda items, with separate public-comment periods. The public therefore had additional opportunities to address these documents before their subsequent consideration on October 14.

For the second meeting, the Board directed that the related items be consolidated for efficiency because they addressed the same overarching subject: implementing Cal OES grant compliance changes. The October 14 agenda expressly identified the revised Records Management Handbook and Retention Schedule.

Consolidation therefore had an identified administrative purpose, and the records policy remained expressly included in the matter presented for public consideration. The earlier September 30th comment opportunity supplemented the opportunity to comment on the consolidated item at the October 14 meeting, which is more public comment than is typical for most agenda items.

Although reasonable time limits on oral public comment help ensure that all participants have an opportunity to speak and that the Board can complete its public business in a reasonable time, written comments offer additional flexibility. The Board welcomes written submissions, and the District imposes no word or page limit.

You and other members of the public are encouraged to submit detailed concerns, proposed revisions, and supporting authorities for the Board's consideration via email or another written medium of your choice. This provides an opportunity to develop your points fully and share materials that may be difficult to present orally during a meeting. Written comments supplement, rather than replace, the opportunity to address the Board orally.

Thank you in advance for providing any additional information that would help the District evaluate your concerns accurately. These preliminary observations in this email do not replace the District's formal consideration of your demand, and this request for clarification does not seek an extension of any applicable statutory response period.

Kind regards,

Mike Rademaker
CEO/Harbormaster
Crescent City Harbor District
101 Citizens Dock Rd
Crescent City, CA 95531
(707) 464-6174 (office)

On Monday, October 19, 2026 at 09:08:12 AM PDT, Linda Sutter <l_sutter@yahoo.com> wrote:

i think you are missing the boat. there were four items in that resolution. three were opened up for discussion. one was not. that is what this cease and desist letter is about. additionally, it appears you address things YOU think are important. I appreciate that. to this date, this is not settled. As far as leaving the other agencies out of this, no. I expect your attorney to fulfill the cease and desist with legal authority. Otherwise, we will go to court. again. November, 16, is your last day to respond.

Thank you for your response, however, it is not responsive to the cease and desist, cure and correct. Lastly, this slows down progress of the harbor. I am counting the days.

Linda Sutter,
Harbor Commissioner, Candidate

From: Linda Sutter <l_sutter@yahoo.com>
Sent: Monday, October 19, 2026 9:28 AM
To: Mike Rademaker <mrademaker@ccharbor.com>
Subject: Re: CCHD-Linda Sutter - Preliminary Response to Cease-and-Desist / Cure-and-Correct

External (l_sutter@yahoo.com)

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you mention that shepherd interrupted me during my speaking time. thank you for stating that. regardless that you think it is a mere interruption, it violates the Bane Act. there are stiff penalties for each violation. if he continues to do it

i will need to file another supplemental to my federal case. lastly, at the meeting in september, we were not permitted to speak on the destruction of documents because mr. shepherd pulled it from the agenda. it was not discussed. and then you guys decided to sneak it in under the guise of a resolution without public discussion. strike. two. This continued corruptive behavior does not look well on the Harbor District. Please, just stop you are not doing anyone any good.

Linda Sutter
Harbor Commissioner, Candidate

Outlook

Re: CCHD-Linda Sutter - Preliminary Response to Cease-and-Desist / Cure-and-Correct

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From Mike Rademaker <mrademaker@ccharbor.com>
Date Mon 10/19/2026 12:33 PM
To Linda Sutter <l_sutter@yahoo.com>

Ms. Sutter,

Thank you for your additional emails. I appreciate your clarification concerning what you believe was a denial of public comment specifically on the fourth component of Resolution No. 2026-18, relating to the Records Management Handbook and Retention Schedule. My earlier response focused substantially

on the safeguards contained in the adopted policy, but I recognize that your latest correspondence emphasizes the separate procedural question of whether the public was permitted to comment on the records-management component before the Board acted.

I want to emphasize that my purpose in responding is not to prolong a debate or engage in an exchange of competing arguments, but simply to provide additional factual context and clarification. My sincere hope is that, by examining the circumstances together and addressing any misunderstandings, we can reach a common understanding of what occurred and, ultimately, resolve the concerns you have raised.

In particular, I would like to draw your attention to the September 30 meeting recording, and also the October 14 meeting recording. I believe some elements may have been overlooked as you reviewed the recordings. In your October 16 demand, you stated that the Board "permitted public comment on three components of Resolution 2026-18 but prohibited public comment on the fourth component." In your subsequent correspondence, you reiterated that three components were opened for discussion while the fourth was not.

However, a careful listening to the recording reveals that at no point during the October 14 meeting did Chair Shepherd announce that public comment was limited to the first three components of Resolution No. 2026-18, nor did he prohibit, exclude, or otherwise restrict public comment concerning Article V of the resolution, or the attached Records Management Handbook and Retention Schedule. The Chair opened public comment on agenda item 5, which encompassed the entire resolution, including all four of its expressly identified components. Members of the public were free to address any or all of those components during the allotted comment period.

This distinction is important. The fact that a resolution contains multiple provisions does not mean the Brown Act necessarily requires the Chair to open a separate public-comment period for each provision. Indeed, virtually any agenda item can be divided into increasingly narrow subtopics, but the relevant consideration is whether the public was afforded a meaningful opportunity to address the matters under consideration. Government Code section 54954.3 requires an opportunity for public comment on

matters under consideration and permits reasonable regulations governing the time allocated for testimony. The District provided a public-comment opportunity for the entire agenda item, without excluding the records-management component.

Similarly, the fact that some components may have received more discussion than others does not establish that public comment on the remaining components was prohibited. There is a material difference between not conducting a separate discussion or comment period for every provision of a resolution and affirmatively preventing members of the public from commenting on a particular provision. Your demand alleges the latter, but I would respectfully ask you to review the meeting recording again, because I can find no evidence that occurred.

The October 14 meeting recording reflects that you spoke during the public-comment period for agenda item 5, beginning at approximately 1:27:25 and concluding at 1:31:18, an elapsed period of 3 minutes and 53 seconds. You were not instructed to avoid discussing Article V, and the Chair did not announce that the Records Management Handbook was off-limits for public comment.

I would also like to reiterate that, in addition to the opportunities for oral public comment, the District welcomes written comments from members of the public, as discussed in my earlier email. In fact, you did avail yourself of that opportunity by submitting several emails before the October 14 meeting expressing your concerns about the matters under consideration.

Written comments provide an additional avenue for communicating detailed concerns, particularly when the time available for oral testimony is necessarily limited. Of course, written comments supplement rather than replace the opportunity for oral public comment required by the Brown Act. I mention this simply to recognize that you had opportunities to communicate your concerns through both means, and that you did, in fact, make use of both those opportunities.

I would also like to address your statement that the records-management matter was removed from the September 30 agenda without an opportunity for public comment, particularly because the meeting recording provides a useful clarification. The meeting recording is available for download here: https://www.ccharbor.com/files/772b55677/CCHD+Board+2026.09.30+%28Special%29.mp3

At approximately 50:43 in the September 30, 2026 special meeting recording, Chair Shepherd explained that he intended to continue agenda items 5, 6, and 7 to the October 14 meeting. Those items concerned the Finance and Administration Manual, the Professional Services Agreement template, and the Records Management Handbook and Retention Schedule, respectively. After explaining the proposed continuance, Chair Shepherd expressly opened the floor for public comment. There was a period of silence during which no one from the audience offered comments or objections. Chair Shepherd then stated, "hearing none," and proceeded.

Accordingly, the records-management matter was not simply removed from consideration without an opportunity for public input. The subject was expressly identified on the September 30 agenda, the Chair invited public comment in connection with the continuance, and the matter subsequently returned for consideration on October 14.

The October 14 agenda also expressly identified all four components of Resolution No. 2026-18, including adoption of the revised Records Management Handbook and Retention Schedule. The handbook was not concealed within the resolution or introduced as an unidentified subject. It was explicitly described in the posted agenda and clearly and conspicuously included in the supporting documents made available for public review several days prior to the meeting.

I would also draw your attention to an important distinction between the public-comment requirements of Government Code section 54954.3 and the statutory grounds for nullifying a Board action under section 54960.1. In *Olson v. Hornbrook Community Services District* (2019) 33 Cal.App.5th 502, 518–519, the Court of Appeal expressly explained that section 54960.1 does not provide a nullification remedy for violations of section 54954.3. Although the Brown Act provides other mechanisms for addressing established public-comment violations, this distinction is directly relevant to your demand that the Board vacate Resolution No. 2026-18.

If you still believe that the Chair prohibited public comment on Article V, I would appreciate your identifying the specific statement or action in the October 14 meeting recording that you believe imposed that prohibition. The recording provides an objective means of resolving this factual disagreement, and identifying the relevant timestamp would assist the District and District Counsel in evaluating your allegation.

Regarding your additional allegation under the Tom Bane Civil Rights Act, I will refer that matter to the District's legal representatives for their review, particularly because you have indicated that you may seek to raise it in your pending federal litigation. I do not believe it would be appropriate for me to engage in a separate legal debate over that claim while litigation is pending.

Finally, I want to reiterate that the records-preservation safeguards described in my earlier email remain applicable. Nothing in Resolution No. 2026-18 authorizes the destruction of records subject to pending CPRA requests, litigation holds, or other applicable legal preservation requirements.

I recognize the importance of your formal demand email. Your correspondence has been referred for legal review, and the District will address the demand in accordance with the applicable statutory procedures and deadlines. As with my earlier email, this correspondence provides preliminary factual and legal clarification and should not be understood as the Board's final determination concerning your request to cure or correct.

Kind regards,

Mike Rademaker
CEO/Harbormaster
Crescent City Harbor District
101 Citizens Dock Rd
Crescent City, CA 95531
(707) 464-6174 (office)