



# Association of California Water Agencies

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November 21, 2014

**Commission on  
State Mandates**

November 21, 2014

**LATE FILING**

Heather Halsey  
Executive Director  
Commission on State Mandates  
980 9th Street, Suite 300  
Sacramento, CA 95814

Subject: Comments on Proposed Decision in Test Claim No. 12 TC 01 (Agricultural Water Measurement), consolidated with Test Claim No. 10-TC-12 (Water Conservation)

Dear Ms. Halsey:

The Association of California Water Agencies (ACWA) appreciates this opportunity to provide comments to the Commission on State Mandates regarding its pending decision on Test Claim No. 12 TC 01 (Agricultural Water Measurement), consolidated with Test Claim No. 10-TC-12 (Water Conservation). ACWA believes this pending decision has significant policy implications for water agencies statewide.

The Water Conservation Act of 2009 and the agricultural water measurement regulations subsequently adopted by Department of Water Resources impose new requirements on agricultural water suppliers. In many cases, compliance with the regulations requires significant new water measurement infrastructure and expanded management capabilities. Some water agencies are not able to fund these new expenditures without increasing property-related fees and charges, which in turn are constrained by Proposition 218 compliance requirements.

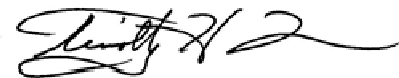
First, ACWA urges the Commission on State Mandates (Commission) not to deny the test claims at the outset for those claimants that do not collect ad valorem tax revenue, because this would depart from the clear policy underlying the Constitutional subvention requirement by creating a new restriction on eligibility that limits subvention to only those local agencies that collect and expend tax revenue. The California Constitution states: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service." The clear intent of this language is to prevent the state from passing the costs of state-mandated programs onto local agencies that are ill-equipped to absorb such costs. Given the restrictions placed on their ability to impose new or higher rates and assessments, local agencies that do not receive tax revenue are now less-equipped to handle increases in mandated costs than those that do. The Commission should not impose this new requirement and effectively disqualify underfunded local agencies from the possibility of state subvention, whatever their sources of revenue.

Heather Halsey  
Executive Director  
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Further, ACWA urges the Commission to retain its current guiding precedent that water, sewer, and refuse collection agencies (whose ability to collect property-related fees and charges is limited by Proposition 218) are eligible for state subvention. Although these agencies need not hold formal elections to pass new or increased fees, such fees are seriously constrained by Proposition 218 in requiring that any such fees can be defeated by protests from a simple majority of affected landowners. There is no basis for the Commission to now conclude that a majority affirmative vote is a constraint on agencies' fee authority, but a majority protest is not, when in fact the Commission has previously held both processes divest agencies of the necessary authority to impose new or increased fees. Should these agencies be made ineligible for state subvention, they would be placed in a Catch-22 situation where they are required to implement and fund new programs but are prohibited from increasing revenue to pay for them. ACWA urges the Commission to remain consistent with its adopted precedent and to allow these agencies, like other local agencies, to remain eligible for state subvention.

Thank you for your consideration of these comments. If you have any questions, please contact me or Dave Bolland at (916) 441-4545.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy H. Quinn". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Timothy H. Quinn  
Executive Director

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On November 24, 2014, I served the:

**Association of California Water Agencies (ACWA) Comments**

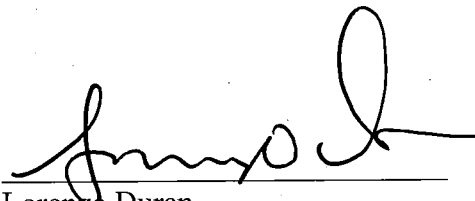
*Water Conservation*, 10-TC-12 and 12-TC-01

Water Conservation Act of 2009 et al.

South Feather Water and Power Agency, Paradise Irrigation District, Richvale Irrigation District, Biggs-West Gridley Water District, Oakdale Irrigation District, and Glenn-Colusa Irrigation District, Claimants

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 24, 2014 at Sacramento, California.



Lorenzo Duran

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 11/24/14

**Claim Number:** 10-TC-12 and 12-TC-01

**Matter:** Water Conservation

**Claimants:** Glenn-Colusa Irrigation District  
Oakdale Irrigation District  
Paradise Irrigation District  
South Feather Water and Power Agency

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Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Socorro Aquino**, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

**George Barber**, *Paradise Irrigation District*

6331 Clark Road, Paradise, CA 95969

Phone: (530) 876-2032

gbarber@paradiseirrigation.com

**Harmeet Barkschat**, *Mandate Resource Services, LLC*

5325 Elkhorn Blvd. #307, Sacramento, CA 95842

Phone: (916) 727-1350

harmeet@calsdrc.com

**Lacey Baysinger**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

**Thaddeus L. Bettner**, *Glenn-Colusa Irrigation District*

P.O. Box 150, Willows, CA 95988

Phone: (530) 934-8881

tbettner@gcid.net

**David Bolland**, Senior Regulatory Advocate, *Association of California Water Agencies*  
910 K Street, Suite 100, Sacramento, CA 95814  
Phone: (916) 441-4545  
daveb@acwa.com

**Allan Burdick**,  
7525 Myrtle Vista Avenue, Sacramento, CA 95831  
Phone: (916) 203-3608  
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*  
895 La Sierra Drive, Sacramento, CA 95864  
Phone: (916) 595-2646  
Bburgess@mgtamer.com

**Michael Byrne**, *Department of Finance*  
915 L Street, 8th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
michael.byrne@dof.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*  
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 323-0706  
gcarlos@sco.ca.gov

**Annette Chinn**, *Cost Recovery Systems, Inc.*  
705-2 East Bidwell Street, #294, Folsom, CA 95630  
Phone: (916) 939-7901  
achinnrcs@aol.com

**Dustin Cooper**, *Minasian, Meith, Soares, Sexton & Cooper, LLP*  
**Claimant Representative**  
1681 Bird Street, P.O. Box 1679, Oroville, CA 95965-1679  
Phone: (530) 533-2885  
dcooper@minasianlaw.com

**Marieta Delfin**, *State Controller's Office*  
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 322-4320  
mdelfin@sco.ca.gov

**Tom Dyer**, *Department of Finance (A-15)*  
915 L Street, Sacramento, CA 95814  
Phone: (916) 445-3274  
tom.dyer@dof.ca.gov

**Sean Early**, *Richvale Irrigation District*  
1193 Richvale Hwy, Richvale, CA  
Phone: (530) 882-4243  
rid@pulsarco.com

**Donna Ferebee**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274

donna.ferebee@dof.ca.gov

**Susan Geanacou**, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274

susan.geanacou@dof.ca.gov

**Michael Glaze**, *South Feather Water & Power Agency*

2310 Oro Quincy Highway, Oroville, CA 95966

Phone: (916) 533-4578

glaze@southfeather.com

**David Guy**, *President, Northern California Water Association (NCWA)*

455 Capitol Mall, Suite 335, Sacramento, CA 95814

Phone: (916) 442-8333

dguy@norcalwater.org

**Peter C. Harman**, *Minasian, Meith, Soares, Sexton & Cooper, LLP*

1681 Bird Street, P.O. Box 1679, Oroville, CA 95965-1679

Phone: (530) 533-2885

pharman@minasianlaw.com

**Andrew M. Hitchings**, *Somach Simmons & Dunn*

**Claimant Representative**

500 Capitol Mall, Suite 1000, Sacramento, CA 95814

Phone: (916) 446-7979

ahitchings@somachlaw.com

**Dorothy Holzem**, *California Special Districts Association*

1112 I Street, Suite 200, Sacramento, CA 95814

Phone: (916) 442-7887

dorothyh@csda.net

**Mark Ibele**, *Senate Budget & Fiscal Review Committee*

California State Senate, State Capitol Room 5019, Sacramento, CA 95814

Phone: (916) 651-4103

Mark.Ibele@sen.ca.gov

**Edward Jewik**, *County of Los Angeles*

Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012

Phone: (213) 974-8564

ejewik@auditor.lacounty.gov

**Matt Jones**, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

matt.jones@csm.ca.gov

**Ferlyn Junio**, *Nimbus Consulting Group, LLC*

2386 Fair Oaks Boulevard, Suite 104, Sacramento, CA 95825

Phone: (916) 480-9444

fjunio@nimbusconsultinggroup.com

**Nathaniel Kane**, *Staff Attorney, Environmental Law Foundation*

1736 Franklin Street, 9th Floor, Oakland, CA 94612

Phone: (510) 208-4555  
nkane@envirolaw.org

**Jill Kanemasu**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 322-9891  
jkanemasu@sco.ca.gov

**Spencer Kenner**, *Department of Water Resources*

1416 Ninth Street, Sacramento, CA 94236-0001  
Phone: N/A  
skenner@water.ca.gov

**Anita Kerezi**, *AK & Company*

3531 Kersey Lane, Sacramento, CA 95864  
Phone: (916) 972-1666  
akcompany@um.att.com

**Jean Kinney Hurst**, Senior Legislative Representative, Revenue & Taxation, *California State Association of Counties (CSAC)*

1100 K Street, Suite 101, Sacramento, CA 95814-3941  
Phone: (916) 327-7500  
jhurst@counties.org

**Jay Lal**, *State Controller's Office (B-08)*

Division of Accounting & Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 324-0256  
JLal@sco.ca.gov

**Michael Lauffer**, Chief Counsel, *State Water Resources Control Board*

1001 I Street, 22nd Floor, Sacramento, CA 95814-2828  
Phone: (916) 341-5183  
mlauffer@waterboards.ca.gov

**Kathleen Lynch**, *Department of Finance (A-15)*

915 L Street, Suite 1280, 17th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
kathleen.lynch@dof.ca.gov

**Eugene Massa**, *Biggs-West Gridley Water District*

1713 West Biggs-Gridley Road, Gridley, CA 95948  
Phone: (530) 846-3317  
bwg@bwgwater.com

**Hortensia Mato**, *City of Newport Beach*

100 Civic Center Drive, Newport Beach, CA 92660  
Phone: (949) 644-3000  
hmato@newportbeachca.gov

**Michelle Mendoza**, *MAXIMUS*

17310 Red Hill Avenue, Suite 340, Irvine, CA 95403  
Phone: (949) 440-0845  
michellemendoza@maximus.com

**Meredith Miller**, Director of SB90 Services, *MAXIMUS*

3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670  
Phone: (972) 490-9990  
meredithcmiller@maximus.com

**Geoffrey Neill**, Senior Legislative Analyst, Revenue & Taxation, *California State Association of Counties (CSAC)*  
1100 K Street, Suite 101, Sacramento, CA 95814  
Phone: (916) 327-7500  
gneill@counties.org

**Andy Nichols**, *Nichols Consulting*  
1857 44th Street, Sacramento, CA 95819  
Phone: (916) 455-3939  
andy@nichols-consulting.com

**Marianne O'Malley**, *Legislative Analyst's Office (B-29)*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8315  
marianne.O'malley@lao.ca.gov

**Arthur Palkowitz**, *Stutz Artiano Shinoff & Holtz*  
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106  
Phone: (619) 232-3122  
apalkowitz@sashlaw.com

**Jai Prasad**, *County of San Bernardino*  
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018  
Phone: (909) 386-8854  
jai.prasad@atc.sbcounty.gov

**Mark Rewolinski**, *MAXIMUS*  
625 Coolidge Drive, Suite 100, Folsom, CA 95630  
Phone: (949) 440-0845  
markrewolinski@maximus.com

**Kathy Rios**, *State Controller's Office*  
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 324-5919  
krios@sco.ca.gov

**David Sandino**, *Department of Water Resources*  
P.O. Box 942836, Sacramento, CA 94236  
Phone: N/A  
dsandino@water.ca.gov

**Lee Scott**, *Department of Finance*  
15 L Street, 8th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
lee.scott@dof.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*  
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 323-5849



jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

DSpeciale@sco.ca.gov

**Alexis K. Stevens**, *Somach Simmons & Dunn*

**Claimant Representative**

500 Capitol Mall, Suite 1000, Sacramento, CA 95814

Phone: (916) 446-7979

astevens@somachlaw.com

**Meg Svoboda**, *Senate Office of Research*

1020 N Street, Suite 200, Sacramento, CA

Phone: (916) 651-1500

meg.svoboda@sen.ca.gov

**Jolene Tollenaar**, *MGT of America*

2001 P Street, Suite 200, Suite 200, Sacramento, CA 95811

Phone: (916) 443-9136

jolene\_tollenaar@mgtamer.com

**Evelyn Tseng**, *City of Newport Beach*

100 Civic Center Drive, Newport Beach, CA 92660

Phone: (949) 644-3127

etseng@newportbeachca.gov

**Brian Uhler**, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8328

brian.uhler@lao.ca.gov

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*

3609 Bradshaw Road, H-382, Sacramento, CA 95927

Phone: (916) 797-4883

dwa-renee@surewest.net

**Hasmik Yaghobyan**, *County of Los Angeles*

Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012

Phone: (213) 974-9653

hyaghobyan@auditor.lacounty.gov