

STATE OF CALIFORNIA

GRAY DAVIS, GOVERNOR

## DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR  
455 Golden Gate Avenue, Tenth Floor  
San Francisco, CA 94102  
(415) 703-5050



August 14, 2002

Shirley Opie  
Assistant Executive Director  
Commission on State Mandates  
980 - 9<sup>th</sup> Street, Suite 300  
Sacramento, CA 95814

RECEIVED

AUG 14 2002

COMMISSION ON  
STATE MANDATES

RE: Prevailing Wage Rate, 01-TC-28  
Clovis Unified School District, Claimant  
Labor Code Section 1720 et al.  
Public Contract Code Section 22022  
Title 8, CCR, Section 1600 et al.  
Statutes of 2001, Chapter 938 et al.  
*And Affected Parties and State Agencies*

Dear Ms. Opie:

I am writing on behalf of the Department of Industrial Relations ("Department") to request an extension of time pursuant to Title 2, California Code Regulations, Sections 1183.01 (c) and 1181.1 (g) to file a response to the test claim filed on behalf of the Clovis Unified School District. Pursuant to these regulations governing such a request, a copy of this letter and the enclosed notice of intention to oppose this test claim in its entirety is being served on all parties listed on the attached proof of service. There are several reasons for this request for extension of time:

- 1) The letter sent by the Commission was sent to the Director of the Department of Industrial Relations at 1121 L Street, Suite 307, Sacramento, CA 95814. The Director of the Department of Industrial Relations has not maintained an office at that address for a number of years. His offices are currently located at 770 L Street, Suite 1160, Sacramento, CA 95814 and 455 Golden Gate Avenue, 10<sup>th</sup> Floor, San Francisco, CA 94102. This delayed the receipt of the submission letter by the Department until July 19<sup>th</sup> and by the appropriate unit, the Division of Labor Statistics and Research, until August 1, 2002.
- 2) The test claim filed with the Commission is 140 pages long not including attachments. It seeks reimbursement based on every single modification to the Labor Code governing prevailing wages from 1977 to the present. As contemplated by Title 2, California Code Regulations, Sections 1181.1 (g), the number and complexity of specific issues raised and the impact of the legislative changes made over the 25 year period of test claim will take a significant amount of time to review to determine the accuracy of the claims made by the claimant and to determine whether alleged "new enactments" are actually codifications of continuing practices dating back a number of years in contradiction of the statements made by the claimant. In addition, any meaningful response will take additional time to assemble given the multiple issues and enactments involved.

Letter to Shirley Opic  
Re: Test Claim  
August 14, 2002  
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- 3) The undersigned believes that it is necessary for him to contact other counsel within and without the Department as the impact of these claims could be extremely significant from a budgetary stand point and could require the wholesale abandonment of enforcement of Public Works statutes due to budgetary constraints should these claims be granted.
- 4) Even if this document had been served at the appropriate address and arrived in a timely manner, the Department would have found it impossible to file an appropriate response within the (30) days allowed due to the need for Senior DIR staff to concentrate on the recent creation of the new state labor agency which has required a change in leadership within the Department of Industrial Relations. This, coupled with the production of the General Area Wage determinations, to be published on August 22, 2002, would have made it impossible for DLSR management and staff to have assisted in responding to the test claim.

The Department of Industrial Relations requests an additional (90) days to respond to the claims made on the test claim but it is willing to respond within 60 days from today, if such time is allowed. I can only emphasize again that the sheer breath and volume of the claims require extensive review and research on behalf of the Department of Industrial Relations to adequately respond to the claims and as a practical matter, any attempt to file a document responding to the test claim in a lesser period would greatly impair the quality of such a response and not provide the Commission with the valuable information that it needs from the Department to properly review these complex claims.

Sincerely,



Gary J. O'Mara  
Counsel

Enclosures

(EAC/Ltr.Opic/TestClaim/8/14/02)

STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS

In Re:

Prevailing Wage Rate, 01-TC-28  
Clovis Unified School District,  
Claimant  
Labor Code Section 1720, et al.  
Public Contract Code Section 22022  
Title 8, CCR, Section 1600 et al.  
Statutes of 2001, Chapter 938, et  
al.  
*And Affected Parties and State  
Agencies*

NOTICE OF INTENTION  
TO OPPOSE TEST CLAIM  
IN ITS ENTIRETY

TO ALL PERSONS AND INTERESTED PARTIES:

The Department of Industrial Relations hereby states its intent to oppose in its entirety the test claim filed in the above captioned matter for all claims of increased cost to all school districts alleged to have been caused by changes in the prevailing wage statutes from 1977 to present. A more complete response will be filed with the Commission on State Mandates and all interested parties listed on the attached Proof of Service on the date specified by the Commission.

The Department is currently requesting an extension of time to file a response to the test claim filed on behalf of the Clovis Unified School District.

Dated: August 14, 2002

Respectfully Submitted:



Gary J. O'Mara  
Counsel for Respondent

PROOF OF SERVICE  
(Code Civ. Proc. §§ 1013a, 2015.5)

**Re: Prevailing Wage Rate, 01-TC-28  
Clovis Unified School District, Claimant  
Labor Code Section 1720, et al.  
Public Contract Code Section 22022  
Title 8, CCR Section 1600 et al.  
Statutes of 2001, Chapter 938 et al.  
And Affected Parties and State Agencies**

I am employed in the City and County of Sacramento, California. I am over the age of eighteen years and not a party to the within action; my business address is 2424 Arden Way, Suite 130, Sacramento, CA, 95825.

On August 14, 2002, I served the enclosed **Letter to Shirley Opie and Notice of Intention to Oppose Test Claim in its entirety**, on the parties listed below, through their attorneys of record, by placing true copies thereof in sealed envelopes addressed as shown below for service as designated below:

(A) By First Class Mail: I am readily familiar with the practice of the Department of Industrial Relations, Office of the Director Legal Unit, for the collection and processing of correspondence for mailing with the United States Postal Service. I caused each such envelope, with first-class postage thereon fully prepared, to be deposited in a recognized place of deposit of the U.S. Mail in Sacramento, California, for collection and mailing to the office of the addressee on the date shown herein.

(B) By Personal Service: I caused each such envelope to be personally delivered to the office of the addressee by a member of the staff of the Department of Industrial Relations, Office of the Director Legal Unit, on the date last written below.

(C) By Messenger Service: I am readily familiar with the practice of the Department of Industrial Relations, Office of the Director Legal Unit for messenger delivery, and I caused each such envelope to be delivered to a courier employed by Golden State Overnight, with whom we have a direct billing account, who personally delivered

each such envelope to the office of the address at the place and on the date last written below.

(D) By Facsimile Transmission: I caused such document to be served via facsimile electronic equipment transmission (fax) on the parties in this action, pursuant to oral and/or written agreement between such parties regarding service by facsimile by transmitting a true copy to the following fax numbers:

<u>TYPE OF SERVICE</u>	<u>ADDRESSEE &amp; FAX NUMBER (IF APPLICABLE)</u>	<u>PARTY REPRESENTED</u>
A&D	Ms. Shirley Opie Asst. Executive Director Commission on State Mandates 980-Ninth Street, Suite 300 Sacramento, CA 95814 Fax No. (916) 445-0278	Interested Party
A	Ms. Harmeet Barkschat Mandate Resource Service 5325 Elkhorn Blvd., Suite 307 Sacramento, CA 95842	Interested Party
A	Dr. Carol Berg Education Mandated Cost Network 1121 L. Street, Suite 1060 Sacramento, CA 95814	Interested Party
A	Mr. Chuck Cake, Acting Director Department of Industrial Relations 770 L. Street, Suite 1160 Sacramento, CA 95814	State Agency
A	Executive Director, (E-08) State Board of Education 721 Capitol Mall, Room 558 Sacramento, CA 95814	State Agency
A	Mr. Glenn Haas, Bureau Chief State Controller's Office Division of Accounting and Reporting 3301 C. Street, Suite 500 Sacramento, CA 95816	State Agency
A	Ms. Beth Hunter, Director Centration, Inc. 8316 Red Oak Street, Suite 101 Rancho Cucamonga, CA 91730	Interested Parson

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A Mr. Tom Lutzenberger (A-15) State Agency  
Principal Analyst  
Department of Finance  
915 L. Street, 6<sup>th</sup> Floor  
Sacramento, CA 95814

A Mr. Bill McGuire Claimant  
Assistant Superintendent  
Clovis Unified School District  
1450 Herndon  
Clovis, CA 93611-0599

A Mr. Paul Minney Interested  
Spector, Middleton, Young & Person  
Minney  
7 Park Center Drive  
Sacramento, CA 95825

A Mr. Keith B. Petersen Claimant  
President  
SixTen & Associates  
5252 Balboa Avenue, Suite 807  
San Diego, CA 92117

A Mr. Gerry Shelton (E-8) State Agency  
Administrator  
Department of Education  
School Fiscal Services  
560 J. Street, Suite 150  
Sacramento, CA 95814

A Mr. Steve Shields Interested  
Shields Consulting Group, Inc. Party  
1536 - 36<sup>th</sup> Street  
Sacramento, CA 95816

A Mr. Steve Smith, CEO Interested  
Mandated Cost Systems, Inc. Party  
11130 Sun Center Drive, Suite 100  
Rancho Cordova, CA 95670

Executed on August 14, 2002, at Sacramento, California. I  
declare under penalty of perjury under the laws of the State of  
California that the foregoing is true and correct.



Eileen A. Cruz, Declarant