



July 11, 2017

Mr. Michael Lauffer  
State Water Resources Control Board  
1001 I Street, 22nd Floor  
Sacramento, CA 95814-2828

Mr. Bruce Wolfe  
San Francisco Bay Regional  
Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**RE: Request for Reports of Waste Discharge**

*California Regional Water Quality Control Board, San Francisco Bay Region,  
Order No. R2-2009-0074, Provisions C.2.b, C.2.c, C.2.e, C.2.f, C.8.b, C.8.c, C.8.d,  
C.8.e.i, ii and iv, C.8.f, C.8.g, C.10.a.i, ii, and iii, C.10.b, C.10.c, C.10.d, C.11.f, and  
C.12.f, 10-TC-01, 10-TC-02, 10-TC-03, and 10-TC-05  
Cities of Alameda, Brisbane, and San Jose, and County of Santa Clara, Claimants*

Dear Mr. Lauffer and Mr. Wolfe:

On June 15, 2016, the Commission on State Mandates (Commission) requested that the San Francisco Bay Regional Water Quality Control Board and the State Water Resources Control Board (water boards) supplement the record of the above-named Test Claim by filing with the Commission copies of:

- a) The official administrative record of the California State Water Quality Control Board, San Francisco Bay Region permit order no. R2-2009-0074, National Pollutant Discharge Elimination System (NPDES) no. CAS612008, prepared in accordance with Code of Federal Regulations, title 40, Section 124.18; and
- b) The official administrative record of the California State Water Resources Control Board permit order no. R2-2009-0074 (NPDES no. CAS612008), prepared in accordance with Code of Federal Regulations, Title 40, Section 124.18.

On August 30, 2016, the Commission received the administrative record for Order No. R2-2009-0074, which noted that the State Water Board received petitions from the cities of Hayward, Livermore, Pleasanton, Alameda, Concord, Cupertino, Newark, Albany, Berkeley, Ferment, Union City, Fairfield, San Jose, San Mateo, Dublin, and San Leandro, and the environmental groups Baykeeper and Natural Resources Defense Council (State Board Petitions A-2057 A-P), put these petitions in abeyance, and had until this time not prepared an administrative record for Order No. R2-2009-0074.

Though voluminous, this record does not seem to be complete. For example, though the water boards asserted that urban runoff management plans and subsequent annual work plans constitute prior law from which some of the requirements of Order No. R2-2009-0074 derive, and included the City of San Jose's plans to support that contention, none of the plans for the numerous other co-permittees were included in the record.

On December 2, 2016, the Commission requested that the water boards provide additional comments with respect to all municipal co-permittees to clarify whether the provisions of the co-

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permittees' urban runoff management plans and subsequent annual work plans constitute prior law against which the C.2 provisions of the R2-2009-0074 permit requirements must be measured and, if so, provide copies of these documents.

On March 23, 2017, the Commission received the Response to the Request for Additional Evidence and Briefing, which noted that prior to 2009, permittees were bound by equivalent provisions to those in the 2009 permit.

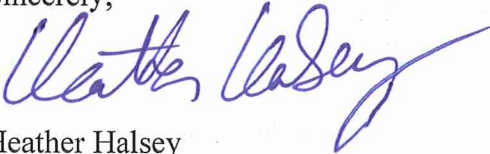
In the process of further analyzing this record, Commission staff now notes that the Reports of Waste Discharge (ROWDs), or applications (i.e. Form 200s and any required NPDES forms such as Short Form A, Standard Form A, Forms 1, 2B, 2C, 2D, 2E, and 2F), for the test claim permit were not included with the record. Please provide copies of these documents, and any other documents which should have been part of the administrative record but were excluded, to the Commission not later than **August 10, 2017**. Commission staff requests that you timely submit the ROWD(s) to avoid further delay in the analysis and hearing of this matter.

You are advised that documents filed with the Commission on State Mandates (Commission) are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Refer to [http://www.csm.ca.gov/dropbox\\_procedures.php](http://www.csm.ca.gov/dropbox_procedures.php) on the Commission's website for electronic filing instructions. (Cal. Code Regs., tit. 2, § 1181.3.)

#### **Hearing**

This matter remains tentatively set for hearing on **January 26, 2018**.

Sincerely,



Heather Halsey  
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 July 11, 2017, I served the:

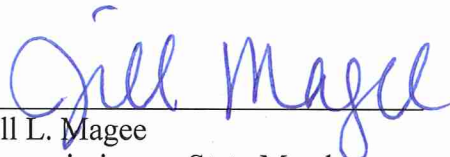
- **Request for Reports of Waste Discharge issued July 11, 2017**

*California Regional Water Quality Control Board, San Francisco Bay Region,  
Order No. R2-2009-0074, Provisions C.2.b, C.2.c, C.2.e, C.2.f, C.8.b, C.8.c, C.8.d,  
C.8.e.i, ii and iv, C.8.f, C.8.g, C.10.a.i, ii, and iii, C.10.b, C.10.c, C.10.d, C.11.f, and  
C.12.f, 10-TC-01, 10-TC-02, 10-TC-03, and 10-TC-05*

Cities of Alameda, Brisbane, and San Jose, and County of Santa Clara, 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 July 11, 2017 at Sacramento, California.



Jill L. Magee  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 6/5/17

**Claim Number:** 10-TC-01, 10-TC-02, 10-TC-03, and 10-TC-05

**Matter:** California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2009-0074, Provisions C.2.b, C.2.c, C.2.e, C.2.f, C.8.b, C.8.c, C.8.d, C.8.e.i, ii, and iv, C.8.f, C.8.g, C.10.a.i, ii, iii, C.10.b, C.10.c, C.10.d, C.11.f, and C.12.f

**Claimant:** Cities of Alameda, Brisbane, and San Jose, and County of Santa Clara

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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.)

**Shahram Aghamir**, City Engineer, *City of Alameda*  
950 West Mall Square, Alameda, CA 94501  
Phone: (510) 747-7930  
saghamir@alamedaca.gov

**Marni Ajello**, *State Water Resources Control Board*  
Office of Chief Counsel, 1001 I Street, 22nd Floor, Sacramento, CA 95814  
Phone: (916) 327-4439  
mamie.ajello@waterboards.ca.gov

**Daniel Akagi**, Associate Civil Engineer, *City of Berkeley*  
1947 Center Street, 4th Floor, Berkeley, CA 94704  
Phone: (510) 981-6394  
dakagi@ci.berkeley.ca.us

**Nicole Almaguer**, Environmental Specialist, *City of Albany*  
1000 San Pablo Avenue, Albany, CA 94706  
Phone: (510) 528-5754  
nalmaguer@albanyca.org

**Rafael Alvarado**, City Attorney, *City of East Palo Alto*  
2415 University Avenue, East Palo Alto, CA 94303  
Phone: (650) 853-5921  
ralvarado@cityofepa.org

**Leticia Alvarez**, *City of Belmont*  
One Twin Pines Lane, Suite 385, Belmont, CA 94002

Phone: (650) 595-7469  
lalvarez@belmont.gov

**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

**Tamarin Austin**, *State Water Resources Control Board*  
Office of Chief Counsel, 1001 I Street, 22nd Floor, Sacramento, CA 95814  
Phone: (916) 341-5171  
Tamarin.Austin@waterboards.ca.gov

**John Bakker**, *City Attorney, City of Dublin*  
100 Civic Center Plaza, Dublin, CA 94568  
Phone: (925) 833-6600  
jbakker@meyersnave.com

**Harmeet Barkschat**, *Mandate Resource Services, LLC*  
5325 Elkhorn Blvd. #307, Sacramento, CA 95842  
Phone: (916) 727-1350  
harmeet@calsdrc.com

**Jim Barse**, *City of Alameda*  
950 West Mall Square, Room 110, Alameda, CA 94501  
Phone: (510) 749-5857  
jbarse@alamedaca.gov

**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

**Shanda Beltran**, *General Counsel, Building Industry Legal Defense Foundation*  
Building Association of Southern California, 17744 Sky Park Circle, Suite 170, Irvine, CA 92614  
Phone: (949) 553-9500  
sbeltran@biasc.org

**David Benoun**, *City Attorney, City of Newark*  
37101 Newark Boulevard, Newark, CA 94560  
Phone: (510) 578-4427  
david.benoun@newark.org

**Cindy Black**, *City Clerk, City of St. Helena*  
1480 Main Street, St. Helena, CA 94574  
Phone: (707) 968-2742  
cityclerk@cityofstheleena.org

**Dennis Bosch**, *Public Works Superintendent Wastewater, City of Redwood City*  
1400 Broadway, Redwood City, CA 94063  
Phone: (650) 780-7476  
dbosch@redwoodcity.org

**Dale Bowyer**, *Section Leader, San Francisco Bay Regional Water Quality Control B*  
1515 Clay Street, Suite 1400, Oakland, CA 94612  
Phone: (510) 622-2323  
Dale.Bowyer@waterboards.ca.gov

**Randy Breault**, *Director of Public Works/City Engineer, City of Brisbane*



**Claimant Representative**

50 Park Place, Brisbane, CA 94005

Phone: (415) 508-2131

rbreault@ci.brisbane.ca.us

**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

**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

**Daniel Carrigg, Deputy Executive Director/Legislative Director, *League of California Cities***

1400 K Street, Suite 400, Sacramento, CA 95814

Phone: (916) 658-8222

Dcarrigg@cacities.org

**Joan Cassman, *Hanson Bridgett LLP***

425 Market Street, 26th Floor, San Francisco, CA 94105

Phone: (415) 995-5021

jcassman@hansonbridgett.com

**Annette Chinn, *Cost Recovery Systems, Inc.***

705-2 East Bidwell Street, #294, Folsom, CA 95630

Phone: (916) 939-7901

achinnrcs@aol.com

**Ramana Chinnakotla, Director of Public Works Services, *City of Redwood City***

1400 Broadway Street, Redwood City, CA 94063-2505

Phone: (650) 780-7464

rchinnakotla@redwoodcity.org

**Carolyn Chu, Senior Fiscal and Policy Analyst, *Legal Analyst's Office***

925 L Street, Sacramento, CA 95814

Phone: (916) 319-8326

Carolyn.Chu@lao.ca.gov

**Michael Coleman, *Coleman Advisory Services***

2217 Isle Royale Lane, Davis, CA 95616

Phone: (530) 758-3952

coleman@munil.com

**Anthony Condotti, *Atchison, Barisone, Condotti & Kovacevich***

333 Church Street, Santa Cruz, CA 95060

Phone: (831) 423-8383

tcondotti@abc-law.com

**Anita Dagan, Manager, Local Reimbursement Section, *State Controller's Office***

Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 324-4112

Adagan@sco.ca.gov

**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

**Brad Donohue**, Deputy Public Works Director, *Town of Colma*

1188 El Camino Real, Colma, CA 94014

Phone: (650) 757-8895

brad.donohue@colma.ca.gov

**Norberto Duenas**, City Manager, *City of San Jose*

**Claimant Representative**

200 East Santa Clara Street, 17th Floor, San Jose, CA 95113

Phone: (408) 535-8111

Norberto.duenas@sanjoseca.gov

**G. Duerig**, General Manager, *Alameda County Flood Control & Water Conservation*

District Zone 7, 100 North Canyons Parkway, Livermore, CA 94551

Phone: (925) 454-5000

jduerig@zone7water.com

**Lesley Estes**, Watershed and Stormwater Management Supervisor, *City of Oakland*

250 Frank H. Ogawa Plaza, Suite 4314, Oakland, CA 94612-2034

Phone: (510) 238-7431

lcestes@oaklandnet.com

**Matt Fabry**, *City of Brisbane*

50 Park Place, Brisbane, CA 94005

Phone: N/A

mfabry@ci.brisbane.ca.us

**Soren Fajeau**, Senior Civil Engineer, *City of Newark*

37101 Newark Boulevard, Newark, CA 94560

Phone: (510) 578-4286

soren.fajeau@newark.org

**Robert Falk**, *Morrison & Foerster LLP*

**Claimant Representative**

425 Market Street, 32nd Floor, San Francisco, CA 94105

Phone: (415) 268-6294

Rfalk@mof.com

**Donna Ferebee**, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274

donna.ferebee@dof.ca.gov

**Sylvia Gallegos**, Deputy County Executive, *County of Santa Clara*

70 West Hedding Street, 11th Floor, San Jose, CA 95110-1770

Phone: (408) 299-5106

sylvia.gallegos@ceo.sccgov.org

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

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274  
susan.geanacou@dof.ca.gov

**Dillon Gibbons**, Legislative Representative, *California Special Districts Association*  
1112 I Street Bridge, Suite 200, Sacramento, CA 95814  
Phone: (916) 442-7887  
dillong@csda.net

**Leah Goldberg**, *City of San Jose*  
200 East Santa Clara Street, 16th Floor, San Jose, CA 95113  
Phone: (408) 535-1901  
leah.goldberg@sanjoseca.gov

**Magda Gonzalez**, City Manager, *City of Half Moon Bay*  
501 Main Street, Half Moon Bay, CA 94019  
Phone: (650) 445-3090  
mgonzalez@hmbcity.com

**Sharon Gosselin**, Associate Environmental Compliance Specialist, *County of Alameda, Alameda Co Flood Control & Water*  
399 Elmhurst Street, Hayward, CA 94544  
Phone: (510) 670-6547  
sharon@acpwa.org

**Darren Greenwood**, Assistant Public Works Director/Water Resources Division Manager, *City of Livermore*  
101 W. Jack London Boulevard, Livermore, CA 94551  
Phone: (925) 960-8120  
dgreenwood@ci.livermore.ca.us

**Gary Grimm**, *Law Office of Gary J. Grimm*  
2390 Vine Street, Berkeley, CA 94708  
Phone: (510) 848-4140  
ggrimm@garygrimmlaw.com

**Kathy Guarnieri**, Environmental Services Manager, *City of Fremont*  
39550 Liberty Street, Fremont, CA 94537  
Phone: (510) 494-4583  
kcote@fremont.gov

**Catherine George Hagan**, Senior Staff Counsel, *State Water Resources Control Board*  
c/o San Diego Regional Water Quality Control Board, 2375 Northside Drive, Suite 100, San Diego, CA 92108  
Phone: (619) 521-3012  
catherine.hagan@waterboards.ca.gov

**Heather Halsey**, Executive Director, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
heather.halsey@esm.ca.gov

**Sunny Han**, Project Manager, *City of Huntington Beach*  
2000 Main Street, Huntington Beach, CA 92648  
Phone: (714) 536-5907  
Sunny.han@surfcity-hb.org

**Julie Harryman**, *City of Pleasanton*  
123 Main Street, Pleasanton, CA 94566



Phone: (925) 931-5018  
jharryman@ci.pleasanton.ca.us

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*  
Local Government Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-3274  
Chris.Hill@dof.ca.gov

**Dorothy Holzem**, Legislative Representative, *California State Association of Counties*  
1100 K Street, Suite 101, Sacramento, CA 95814  
Phone: (916) 327-7500  
dholzem@counties.org

**Justyn Howard**, Program Budget Manager, *Department of Finance*  
915 L Street, Sacramento, CA 95814  
Phone: (916) 445-1546  
justyn.howard@dof.ca.gov

**David Huynh**, Associate Engineer, *Town of Atherton*  
Public Works, 91 Ashfield Road, Atherton, CA 94027  
Phone: (650) 752-0555  
dhuynh@ci.atherton.ca.us

**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

**Mary Eleonor Ignacio**, Assistant City Attorney, *Redwood City*  
400 County Ctr, Redwood City, CA 94063  
Phone: (650) 780-7200  
eignacio@redwoodcity.org

**Irene Islas**, *Best Best & Krieger, LLP*  
2001 N Main St, Suite 390, Walnut Creek, CA 94596  
Phone: (925) 977-3300  
irene.islas@bbklaw.com

**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

**Kathleen Kane**, City Attorney, *City of Burlingame*  
501 Primrose Road, Burlingame, CA 94010  
Phone: (650) 558-7202  
kkane@burlingame.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

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

**Maurice Kaufman**, Public Works Director/City Engineer, *City of Emeryville*

1333 Park Avenue, Emeryville, CA 94608  
Phone: (510) 596-4334  
mkaufman@emeryville.org

**Anita Kerezi**, *AK & Company*  
3531 Kersey Lane, Sacramento, CA 95864  
Phone: (916) 972-1666  
akcompany@um.att.com

**Margo Laskowska**, *City of San Jose*  
Office of the City Attorney, 200 E Santa Clara St, 16th Floor, San Jose, CA 95113  
Phone: (408) 535-1969  
margo.laskowska@sanjoseca.gov

**Michael Lauffer**, Acting Executive Director and Chief Counsel, *State Water Resources Control Board*  
1001 I Street, 22nd Floor, Sacramento, CA 95814-2828  
Phone: (916) 341-5183  
mlauffer@waterboards.ca.gov

**Kim-Anh Le**, Division Manager, *County of Santa Clara*  
Controller-Treasurer, 70 West Hedding Street, East Wing, 2nd Floor, San Jose, CA 95112  
Phone: (408) 299-5251  
kim-anh.le@fin.sccgov.org

**Keith Lichten**, Division Chief, *San Francisco Bay Regional Water Quality Control B*  
Watershed Management, 1515 Clay Street, Suite 1400, Oakland, CA 94612  
Phone: (510) 622-2380  
klichten@waterboards.ca.gov

**Khee Lim**, City Engineer, *City of Millbrae*  
621 Magnolia Avenue, Millbrae, CA 94030  
Phone: (650) 259-2339  
klim@ci.millbrae.ca.us

**Selina Louie**, Water Resource Control Engineer, *San Francisco Bay Regional Water Quality Control B*  
1515 Clay Street, Suite 1400, Oakland, CA 94612  
Phone: (510) 622-2383  
SLouie@waterboards.ca.gov

**Paul Lukacs**, Senior Commission Counsel, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
paul.lukacs@esm.ca.gov

**Debra Margolis**, *City of Fremont*  
3300 Capitol Avenue, Building A, Fremont, CA 94538  
Phone: (510) 284-4030  
dmargolis@fremont.gov

**Patricia Martel**, City Manager, *City of Daly City*  
333-90th Street, Daly City, CA 94015  
Phone: (650) 991-8127  
pmartel@dalycity.org

**Abbas Masjedi**, Utility Engineer, *City of Pleasanton*  
3333 Busch Road, Pleasanton, CA 94566

Phone: (925) 931-5508  
amasjedi@ci.pleasanton.ca.us

**Shawn Mason**, *City of San Mateo*  
330 W. 20th Avenue, San Mateo, CA 94403  
Phone: (650) 522-7020  
smason@cityofsanmateo.org

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

**Steven Mattas**, *City Attorney, City of South San Francisco*  
400 Grand Avenue, South San Francisco, CA 94083  
Phone: (650) 877-8515  
smattas@meyersnave.com

**Alex McIntyre**, *City Manager, City of Menlo Park*  
701 Laurel Street, Menlo Park, CA 94025  
Phone: (650) 330-6610  
admccintyre@menlopark.org

**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

**Jeff Moneda**, *Director of Public Works, City of Foster City*  
610 Foster City Boulevard, Foster City, CA 94404  
Phone: (650) 286-3270  
jmoneda@fostercity.org

**Thomas Mumley**, *Assistant Executive Officer, San Francisco Bay Regional Water Quality Control  
B*  
1515 Clay Street, Suite 1400, Oakland, CA 94612  
Phone: (510) 622-2395  
thomas.mumley@waterboards.ca.gov

**Justin Murphy**, *Public Works Director, City of Menlo Park*  
701 Laurel Street, Menlo Park, CA 94025  
Phone: (650) 330-6752  
jicmurphy@menlopark.org

**Richard Napier**, *Executive Director, City/County Association of Governments  
of San Mateo County, 555 County Center, 5th Floor, Redwood City, CA 94063*  
Phone: (650) 559-1420  
mapier@co.sanmateo.ca.us

**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

**Gregory Newmark**, *Meyers,Nave,Riback,Silver & Wilson*  
**Claimant Representative**

555 12th Street, Suite 1500, Oakland, CA 94607  
Phone: (510) 808-2000  
gnewmark@meyersnave.com

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

**Adriana Nunez**, Staff Counsel, *State Water Resources Control Board*  
P.O. Box 100, Sacramento, CA 95812  
Phone: (916) 322-3313  
Adriana.nunez@waterboards.ca.gov

**Lori Okun**, Assistant Chief Counsel, *State Water Resources Control Board*  
Regional Water Board Legal Services, 1001 I Street, Sacramento, CA 95814  
Phone: (916) 341-5165  
Lori.Okun@waterboards.ca.gov

**Celso Ortiz**, *City of Oakland*  
One Frank Ogawa Plaza, 6th Floor, Oakland, CA 94612  
Phone: (510) 238-6236  
cortiz@oaklandcityattorney.org

**Arthur Palkowitz**, *Artiano Shinoff*  
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106  
Phone: (619) 232-3122  
apalkowitz@as7law.com

**Steven Pavlov**, Budget Analyst, *Department of Finance*  
Local Government Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-3274  
Steven.Pavlov@dof.ca.gov

**Elizabeth Pianca**, Deputy County Counsel, *County of Santa Clara*  
70 West Hedding Street, East Wing, 9th Floor, San Jose, CA 95110-1770  
Phone: (408) 299-5920  
elizabeth.pianca@cco.sccgov.org

**Richard Pio Roda**, City Attorney, *City of San Leandro*  
835 East 14th Street, San Leandro, CA 94577  
Phone: (510) 577-6098  
rpioroda@meyersnave.com

**James Porter**, Director of Public Works, *County of San Mateo*  
555 County Center, 5th Floor, Redwood City, CA 94063  
Phone: (650) 559-1421  
jporter@co.sanmateo.ca.us

**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

**Cecilia Quick**, City Attorney, *City of Pacifica*  
170 Santa Maria Ave, Pacifica, CA 94044  
Phone: (650) 738-7408  
quicke@ci.pacifica.ca.us

**Veronica Ramirez**, *City of Redwood City*  
1017 Middlefield Road, Redwood City, CA 94063  
Phone: (650) 780-7200  
vramirez@redwoodcity.org

**Mark Rewolinski**, *MAXIMUS*  
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236  
Phone: (949) 440-0845  
markrewolinski@maximus.com

**Benjamin Reyes**, City Attorney, *City of Union City*  
34009 Alvarado-Niles Road, Union City, CA 94587  
Phone: (510) 471-3232  
breyes@meyersnave.com

**George Rodericks**, City Manager, *Town of Atherton*  
91 Ashfield Road, Atherton, CA 94027  
Phone: (650) 752-0504  
grodericks@ci.atherton.ca.us

**Nick Romo**, Policy Analyst, *League of California Cities*  
1400 K Street, Suite 400, Sacramento, CA 95814  
Phone: (916) 658-8254  
nromo@cacities.org

**Sean Rose**, Town Engineer, *Town of Woodside*  
2955 Woodside Road, Woodside, CA 94062  
Phone: (650) 851-6790  
srose@woodsidetown.org

**Michael Roush**, *Emergency Services-Marina Services-Public Works*  
50 Park Place, Brisbane, CA 94005  
Phone: (415) 508-2136  
mroush@ci.brisbane.ca.us

**Greg Rubens**, City Attorney, *City of San Carlos*  
600 Elm Street, San Carlos, CA 94070  
Phone: (650) 593-3117  
grubens@adcl.com

**James Scanlin**, Environmental Compliance Specialist, *County of Alameda*  
Public Works, 399 Elmhurst Street, Hayward, CA 94544  
Phone: (510) 670-6548  
jims@acpwa.org

**Sarah Scheidt**, Environmental Programs Manager, *City of San Mateo*  
330 W. 20th Avenue, San Mateo, CA 94403  
Phone: (650) 522-7385  
sscheidt@cityofsanmateo.org

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
camille.shelton@csm.ca.gov

**Carla Shelton**, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 327-6490  
carla.shelton@csm.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

**Tracy Sullivan**, Legislative Analyst, *California State Association of Counties (CSAC)*  
Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814  
Phone: (916) 650-8124  
tsullivan@counties.org

**Patrick Sweetland**, *City of Daly City*  
153 Lake Merced Boulevard, Daly City, CA 94015  
Phone: (650) 991-8201  
psweetland@dalycity.org

**Jimmy Tan**, Public Services Director, *City of San Bruno*  
567 El Camino Real, San Bruno, CA 94066  
Phone: (650) 616-7065  
jtan@sanbruno.ca.gov

**Charles Taylor**, Engineering Services Manager, *City of Menlo Park*  
701 Laurel Street, Menlo Park, CA 94025-3483  
Phone: (650) 858-6740  
CWTaylor@MenloPark.org

**Jolene Tollenaar**, *MGT of America*  
2251 Harvard Street, Suite 134, Sacramento, CA 95815  
Phone: (916) 443-411  
jolene\_tollenaar@mgtamer.com

**Annie Tom**, *County of Santa Clara*  
Controller - Treasurer Department, 70 West Hedding Street, East Wing, San Jose, CA 95110  
Phone: (408) 299-5265  
annie.tom@fin.sccgov.org

**Evelyn Tseng**, *City of Newport Beach*  
100 Civic Center Drive, Newport Beach, CA 92660  
Phone: (949) 644-3127  
etseng@newportbeachca.gov

**Nawel Voelker**, Acting Director of Finance (Management Analyst), *City of Belmont*  
Finance Department, One Twin Pines Lane, Belmont, CA 94002  
Phone: (650) 595-7433  
nvoelker@belmont.gov

**Victor Voong**, Associate Engineer, *City of Burlingame*  
501 Primrose Road, Burlingame, CA 94010  
Phone: (650) 558-7242  
vvoong@burlingame.org

**Jay Walter**, Director, *City of San Carlos*  
Public Works, 600 Elm Street, San Carlos, CA 94070  
Phone: (650) 802-4203  
jwalter@cityofsancarlos.org

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*  
3609 Bradshaw Road, H-382, Sacramento, CA 95927  
Phone: (916) 797-4883  
dwa-renee@surewest.net

**Jennifer Whiting**, Assistant Legislative Director, *League of California Cities*  
1400 K Street, Suite 400, Sacramento, CA 95814  
Phone: (916) 658-8249  
jwhiting@cacities.org

**Patrick Whitnell**, General Counsel, *League of California Cities*  
1400 K Street, Suite 400, Sacramento, CA 95814  
Phone: (916) 658-8281  
pwhitnell@cacities.org

**Paul Willis**, Director of Public Works, *Town of Hillsborough*  
1600 Floribunda Avenue, Hillsborough, CA 94010  
Phone: (650) 375-7444  
pwillis@hillsborough.net

**Bruce Wolfe**, Executive Officer, *San Francisco Bay Regional Water Quality Control B*  
1515 Clay Street, Suite 1400, Oakland, CA 94612  
Phone: (510) 622-2314  
bwolfe@waterboards.ca.gov

**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

**T.J. Yang-Wurm**, *County of Santa Clara*  
Controller-Treasurer, 70 West Hedding Street, East Wing, 2nd Floor, San Jose, CA 95112  
Phone: (408) 299-5200  
tj.yang-wurm@fin.sccgov.org

**Howard Young**, Director of Public Works, *Town of Portola Valley*  
765 Portola Road, Portola Valley, CA 94028  
Phone: (650) 851-1700  
hyoung@portolavalley.net