

May 19, 2023

**RECEIVED**  
May 22, 2023  
**Commission on  
State Mandates**

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

**LATE FILING**

**Response to Draft Proposed Decision for Test Claim 11-TC-03, California Regional Water Quality Control Board, San Diego Region, Order No. R0-2010-0016**

Dear Director Halsey:

The Department of Finance (Finance) has reviewed the draft proposed decision for the San Diego Regional Water Quality Control Board (Regional Water Board), Test Claim 11-TC-03. Finance defers to the California State Water Resources Control Board (State Board) and to the Regional Water Board as to (i) the duration of any reimbursement period; and (ii) those portions of the Test Claim Permit (as defined below) where the draft proposed decision finds potential for reimbursable costs.

Finance agrees with the draft proposed decision's conclusions that the conditions set forth in certain sections of Order No. R9-2010-0016 issued by the Regional Water Board (Test Claim Permit) do not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution. Specifically, Finance notes that the draft proposed decision is correct with respect to its denial of reimbursable costs associated with Section B.2.; Section C.; Sections F.4.d. and e. and Section II.C. of Attachment E; Section D; Sections F.1.d., 2., 4., 7., Sections h. and F.3.d1.-5; Section F.1.f.; Sections F.2.d.3.; Section §.2.e.6.e.; Sections F.1.i. and F.3.a.10.; and Section F.3.b.4.a.ii of the Test Claim Permit.

Finance continues to assert that claimants do have sufficient fee authority that is undiminished by Propositions 218 and 26. Finance relies on the holding in *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th, 794 that, to the extent that local government has authority to charge for program costs, those charges cannot be recovered as a state-mandated cost. Thus, Finance argues that the decision by local government not to take the additional necessary steps (such as submitting a proposed fee to voters) to exercise fee authority does not negate that fee authority but instead evidences an exercise of discretion by local government. This is supported by *Paradise Irrigation District v. Commission on State Mandates* (2019) 33 Cal.App.5th 174, 244 which found that the majority protest procedure (which Finance contends is one of the additional steps to the exercise of fee authority as described above) does not negate a claimant's fee authority. Further, Finance maintains that Government Code section

17556(d) applies in that there can be no finding of a reimbursable stated-mandated program when the claimants have the authority to impose fees sufficient to pay for the requirements of the Test Claim Permit.

Should the Commission find reimbursable costs in connection with the Test Claim Permit, Finance points to offsetting funds that are not "proceeds of taxes" within the meaning of article XIII B, section 8(c) of the California Constitution and notes that the Commission should take all steps necessary to identify those funds and deduct them from any reimbursable costs. As noted in Department of Finance vs. Commission on State Mandates (2022) 85 Cal.App.5th 535, 560, citing County of Fresno v. State of California et al. 280 Cal.Rptr., 92 at p. 487, article XIII B, section 6 of the California Constitution requires subvention only when the costs in question can be recovered solely from tax revenues.

If you have any questions regarding this letter, please contact Chris Hill, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,

*Teresa Calvert*

TERESA CALVERT  
Program Budget Manager

Recipient's Email Address

[Heather.Halsey@csm.ca.gov](mailto:Heather.Halsey@csm.ca.gov)

[Jill.Magee@csm.ca.gov](mailto:Jill.Magee@csm.ca.gov)

## 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 May 22, 2023, I served the:

- **Finance's Late Comments on the Draft Proposed Decision filed May 22, 2023**
- **Claimants' Comments on the Draft Proposed Decision filed May 19, 2023**

*California Regional Water Quality Control Board, San Diego Region,  
Order No. R9-2010-0016, 11-TC-03*

California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016, Sections B.2., C., D., F.1.d.1., 2., 4., 7., F.1.f., F.1.h., F.1.i., F.2.d.3., F.2.e.6.e., F.3.a.10., F.3.b.4.a.ii., F.3.d.1.-5., F.4.d., F.4.e., G.1.-5., K.3.a.-c., Attachment E., Sections II.C. and II.E.2.-5., and Sections F., F.1., F.1.d., F.2., F.3.a.-d., and F.6.,  
Adopted November 10, 2010

County of Riverside, Riverside County Flood Control and Water Conservation District, and Cities of Murrieta, Temecula, and Wildomar, 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 May 22, 2023 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:** 5/17/23

**Claim Number:** 11-TC-03

**Matter:** California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016

**Claimants:** City of Murrieta  
City of Temecula  
City of Wildomar  
County of Riverside  
Riverside County Flood Control and Water Conservation District

### 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.)

**Aaron Adams**, City Manager, *City of Temecula*

**Claimant Contact**

41000 Main Street, Temecula, CA 92590

Phone: (951) 506-5100

aaron.adams@temeculaca.gov

**Adaoha Agu**, *County of San Diego Auditor & Controller Department*

Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410, MS:O-53, San Diego, CA 92123

Phone: (858) 694-2129

Adaoha.Agu@sdcounty.ca.gov

**Rachelle Anema**, Division Chief, *County of Los Angeles*

Accounting Division, 500 W. Temple Street, Los Angeles, CA 90012

Phone: (213) 974-8321

RANEMA@auditor.lacounty.gov

**Lili Apgar**, Specialist, *State Controller's Office*

Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 324-0254

lapgar@sco.ca.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

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

**Ben Benoit**, Auditor-Controller, *County of Riverside*  
**Claimant Contact**  
4080 Lemon Street, 11th Floor, Riverside, CA 92502  
Phone: (951) 955-3800  
bbenoit@rivco.org

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

**Guy Burdick**, Consultant, *MGT Consulting*  
2251 Harvard Street, Suite 134, Sacramento, CA 95815  
Phone: (916) 833-7775  
gburdick@mgtconsulting.com

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

**David Burhenn**, *Burhenn & Gest, LLP*  
**Claimant Representative**  
12401 Wilshire Blvd, Suite 200, Los Angeles, CA 90025  
Phone: (213) 629-8788  
dburhenn@burhenngest.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 324-5919  
ECalderonYee@sco.ca.gov

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

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, 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@muni1.com

**Kris Cook**, Assistant Program Budget Manager, *Department of Finance*  
915 L Street, 10th Floor, Sacramento, CA 95814

Phone: (916) 445-3274  
Kris.Cook@dof.ca.gov

**Brian Cote**, Senior Government Finance & Administration Analyst, *California State Association of Counties (CSAC)*

1100 K Street, Suite 101, Sacramento, CA 95814  
Phone: (916) 650-8184  
bcote@counties.org

**Thomas Deak**, Senior Deputy, *County of San Diego*

Office of County Counsel, 1600 Pacific Highway, Room 355, San Diego, CA 92101  
Phone: (619) 531-4810  
Thomas.Deak@sdcountry.ca.gov

**Kalyn Dean**, Senior Legislative Analyst, *California State Association of Counties (CSAC)*

Government Finance and Administration, 1100 K Street, Suite 101, Sacramento, CA 95814  
Phone: (916) 327-7500  
kdean@counties.org

**Ted Doan**, Budget Analyst, *Department of Finance*

Local Government Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-3274  
Ted.Doan@dof.ca.gov

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

915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-8918  
donna.ferebee@dof.ca.gov

**Tim Flanagan**, Office Coordinator, *Solano County*

Register of Voters, 678 Texas Street, Suite 2600, Fairfield, CA 94533  
Phone: (707) 784-3359  
Elections@solanocounty.com

**Jennifer Fordyce**, Assistant Chief Counsel, *State Water Resources Control Board*

Office of Chief Counsel, 1001 I Street, 22nd floor, Sacramento, CA 95814  
Phone: (916) 324-6682  
Jennifer.Fordyce@waterboards.ca.gov

**Craig Foster**, Chief Operating Officer, *Building Industry Legal Defense Foundation*

Building Association of Southern California, 17744 Sky Park Circle, Suite 170, Irvine, Irvin 92614  
Phone: (949) 553-9500  
cfoster@biasec.org

**David Gibson**, Executive Officer, *San Diego Regional Water Quality Control Board*

9174 Sky Park Court, Suite 100, San Diego, CA 92123-4340  
Phone: (858) 467-2952  
dgibson@waterboards.ca.gov

**Juliana Gmur**, *Commission on State Mandates*

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

**Sunny Han**, Acting Chief Financial Officer, *City of Huntington Beach*  
2000 Main Street, Huntington Beach, CA 92648  
Phone: (714) 536-5630  
Sunny.Han@surfcity-hb.org

**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

**Tiffany Hoang**, Associate Accounting Analyst, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 323-1127  
THoang@sco.ca.gov

**Ivan Holler**, *City of Murrieta*  
1 Town Square, 24601 Jefferson Ave., Murrieta, CA 92562  
Phone: (951) 461-6078  
iholler@murrietaca.gov

**Jason Jennings**, Director, *Maximus Consulting*  
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236  
Phone: (804) 323-3535  
SB90@maximus.com

**George Johnson**, Chief Executive Officer, *County of Riverside*  
4080 Lemon Street, 4th Floor, Riverside, CA 92501  
Phone: (951) 955-1100  
gajohnson@rivco.org

**Angelo Joseph**, Supervisor, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 323-0706  
AJoseph@sco.ca.gov

**Anita Kerezsi**, *AK & Company*  
2425 Golden Hill Road, Suite 106, Paso Robles, CA 93446  
Phone: (805) 239-7994  
akcompanysb90@gmail.com

**Joanne Kessler**, Fiscal Specialist, *City of Newport Beach*  
Revenue Division, 100 Civic Center Drive, Newport Beach, CA 90266  
Phone: (949) 644-3199  
jkessler@newportbeachca.gov

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*  
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816



Phone: (916) 327-3138  
lkurokawa@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  
michael.lauffer@waterboards.ca.gov

**Kim-Anh Le**, Deputy Controller, *County of San Mateo*  
555 County Center, 4th Floor, Redwood City, CA 94063  
Phone: (650) 599-1104  
kle@smcgov.org

**Alison Leary**, Deputy General Counsel, *League of California Cities*  
1400 K Street, Suite 400, Sacramento, CA 95814  
Phone: (916) 658-8200  
aleary@cacities.org

**Fernando Lemus**, Principal Accountant - Auditor, *County of Los Angeles*  
Auditor-Controller's Office, 500 West Temple Street, Room 603, Los Angeles, CA 90012  
Phone: (213) 974-0324  
flemus@auditor.lacounty.gov

**Erika Li**, Chief Deputy Director, *Department of Finance*  
915 L Street, 10th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
erika.li@dof.ca.gov

**Diego Lopez**, Consultant, *Senate Budget and Fiscal Review Committee*  
1020 N Street, Room 502, Sacramento, CA 95814  
Phone: (916) 651-4103  
Diego.Lopez@sen.ca.gov

**Everett Luc**, Accounting Administrator I, Specialist, *State Controller's Office*  
3301 C Street, Suite 740, Sacramento, CA 95816  
Phone: (916) 323-0766  
ELuc@sco.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
Jill.Magee@csm.ca.gov

**Corrie Manning**, Assistant General Counsel, *League of California Cities*  
1400 K Street, Suite 400, Sacramento, CA 95814  
Phone: (916) 658-8200  
cmanning@cacities.org

**Darryl Mar**, Manager, *State Controller's Office*  
3301 C Street, Suite 740, Sacramento, CA 95816  
Phone: (916) 323-0706  
DMar@sco.ca.gov

**Jane McPherson**, Financial Services Director, *City of Oceanside*  
300 North Coast Highway, Oceanside, CA 92054  
Phone: (760) 435-3055  
JmcPherson@oceansideca.org

**Michelle Mendoza**, *MAXIMUS*

17310 Red Hill Avenue, Suite 340, Irvine, CA 95403

Phone: (949) 440-0845

michellemendoza@maximus.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*

925 L Street, Suite 1000, Sacramento, CA 95814

Phone: (916) 319-8320

Lourdes.Morales@LAO.CA.GOV

**Marilyn Munoz**, Senior Staff Counsel, *Department of Finance*

915 L Street, Sacramento, CA 95814

Phone: (916) 445-8918

Marilyn.Munoz@dof.ca.gov

**Kaleb Neufeld**, Assistant Controller, *City of Fresno*

2600 Fresno Street, Fresno, CA 93721

Phone: (559) 621-2489

Kaleb.Neufeld@fresno.gov

**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*

Los Angeles Regional Water Quality Control Board, 1001 I Street, 22nd Floor, Sacramento, CA 95814

Phone: (916) 322-3313

Adriana.Nunez@waterboards.ca.gov

**Patricia Pacot**, Accountant Auditor I, *County of Colusa*

Office of Auditor-Controller, 546 Jay Street, Suite #202, Colusa, CA 95932

Phone: (530) 458-0424

ppacot@countyofcolusa.org

**Arthur Palkowitz**, *Law Offices of Arthur M. Palkowitz*

12807 Calle de la Siena, San Diego, CA 92130

Phone: (858) 259-1055

law@artpalk.onmicrosoft.com

**Kirsten Pangilinan**, Specialist, *State Controller's Office*

Local Reimbursements Section, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 322-2446

KPangilinan@sco.ca.gov

**Johnnie Pina**, Legislative Policy Analyst, *League of Cities*

1400 K Street, Suite 400, Sacramento, CA 95814

Phone: (916) 658-8214

jpina@cacities.org

**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@sbccountyatc.gov

**Jonathan Quan**, Associate Accountant, *County of San Diego*

Projects, Revenue, and Grants Accounting, 5530 Overland Ave, Suite 410, San Diego, CA 92123

Phone: 6198768518  
Jonathan.Quan@sdcountry.ca.gov

**Roberta Raper**, Director of Finance, *City of West Sacramento*  
1110 West Capitol Ave, West Sacramento, CA 95691  
Phone: (916) 617-4509  
robertar@cityofwestsacramento.org

**Alex Sauerwein**, Attorney, *State Water Resources Control Board*  
San Diego Regional Water Quality Control Board, 1001 I Street, 22nd Floor, Sacramento, CA 95814  
Phone: (916) 327-8581  
Alex.Sauerwein@waterboards.ca.gov

**Cindy Sconce**, Director, *MGT*  
Performance Solutions Group, 3600 American River Drive, Suite 150, Sacramento, CA 95864  
Phone: (916) 276-8807  
csconce@mgtconsulting.com

**Carla Shelton**, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
carla.shelton@csm.ca.gov

**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

**Natalie Sidarous**, Chief, *State Controller's Office*  
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816  
Phone: 916-445-8717  
NSidarous@sco.ca.gov

**Michelle Skaggs Lawrence**, City Manager, *City of Oceanside*  
300 North Coast Highway, Oceanside, CA 92054  
Phone: (760) 435-3055  
citymanager@oceansideca.org

**Eileen Sobeck**, Executive Director, *State Water Resources Control Board*  
1001 I Street, 22nd Floor, Sacramento, CA 95814-2828  
Phone: (916) 341-5183  
Eileen.Sobeck@waterboards.ca.gov

**Kim Summers**, City Manager, *City of Murrieta*  
**Claimant Contact**  
1 Town Square, Murrieta, CA 92562  
Phone: (951) 461-6010  
KSummers@murrietaCA.gov

**Jolene Tollenaar**, *MGT Consulting Group*  
2251 Harvard Street, Suite 134, Sacramento, CA 95815  
Phone: (916) 243-8913  
jolenetollenaar@gmail.com

**Evelyn Tseng**, *City of Newport Beach*  
100 Civic Center Drive, Newport Beach, CA 92660

Phone: (949) 644-3127  
etseng@newportbeachca.gov

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8328  
Brian.Uhler@LAO.CA.GOV

**Jason Uhley**, General Manager - Chief Engineer, *Riverside County Flood Control*  
**Claimant Contact**  
and Water Conservation District, 1995 Market Street, Riverside, CA 95201  
Phone: (951) 955-1201  
juhley@rivco.org

**Antonio Velasco**, Revenue Auditor, *City of Newport Beach*  
100 Civic Center Drive, Newport Beach, CA 92660  
Phone: (949) 644-3143  
avelasco@newportbeachca.gov

**Vincent Vu**, Attorney, *State Water Resources Control Board*  
San Diego Regional Water Quality Control Board, 1001 I Street, 22nd Floor, Sacramento, CA 95814  
Phone: (916) 323-5669  
Vincent.Vu@waterboards.ca.gov

**Emel Wadhvani**, Senior Staff Counsel, *State Water Resources Control Board*  
Office of Chief Counsel, 1001 I Street, Sacramento, CA 95814  
Phone: (916) 322-3622  
emel.wadhvani@waterboards.ca.gov

**Ada Waelder**, Legislative Analyst, Government Finance and Administration, *California State Association of Counties (CSAC)*  
1100 K Street, Suite 101, Sacramento, CA 95814  
Phone: (916) 327-7500  
awaelder@counties.org

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

**Colleen Winchester**, Senior Deputy City Attorney, *City of San Jose*  
200 East Santa Clara Street, 16th Floor, San Jose, CA 95113  
Phone: (408) 535-1987  
Colleen.Winchester@sanjoseca.gov

**Jacqueline Wong-Hernandez**, Deputy Executive Director for Legislative Affairs, *California State Association of Counties (CSAC)*  
1100 K Street, Sacramento, CA 95814  
Phone: (916) 650-8104  
jwong-hernandez@counties.org

**Elisa Wynne**, Staff Director, *Senate Budget & Fiscal Review Committee*  
California State Senate, State Capitol Room 5019, Sacramento, CA 95814  
Phone: (916) 651-4103  
elisa.wynne@sen.ca.gov

**Dan York**, City Manager, *City of Wildomar*  
**Claimant Contact**

23873 Clinton Keith Rd., Suite 110, Wildomar, CA 92595

Phone: (951) 677-7751

dyork@cityofwildomar.org

**Helmholt Zinser-Watkins**, Associate Governmental Program Analyst, *State Controller's Office*

Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 700,

Sacramento, CA 95816

Phone: (916) 324-7876

HZinser-watkins@sco.ca.gov