



October 25, 2018

Mr. Tom Herbel  
City of Huntington Beach  
2000 Main Street  
Huntington Beach, CA 92648

Ms. Erika Li  
Department of Finance  
915 L Street  
Sacramento, CA 95814

Ms. Hope Smythe  
Santa Ana Regional Water  
Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501-3348

Ms. Eileen Sobeck  
State Water Resources  
Control Board  
1001 I Street, 22nd Floor  
Sacramento, CA 95814-2828

Mr. Fred Wilson  
City of Huntington Beach  
2000 Main Street  
Huntington Beach, CA 92648

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

**RE: Notice of Complete Test Claim, Schedule for Comments, Request for Administrative Record, and Notice of Tentative Hearing Date**  
*Water Code Section 13383(a) Phase I MS4 Trash Order Issued to City of Huntington Beach, Santa Ana Regional Water Quality Control Board, Effective June 2, 2017, 17-TC-09*  
City of Huntington Beach, Claimant

Dear Messrs. Herbel and Wilson, and Mss. Li, Smythe, and Sobeck:

On May 31, 2018, the City of Huntington Beach filed the above-captioned Test Claim *which is applicable to the City of Huntington Beach only*.<sup>1</sup> Upon review, Commission staff found the Test Claim to be incomplete and notified the claimant on August 13, 2018. On September 12, 2018, the claimant filed documents to cure the Test Claim. Upon review, Commission staff finds that this Test Claim is complete and that it retains the original filing date of May 31, 2018, in accordance with section 1183.1(e) of the Commission's regulations (California Code of Regulations, Title 2).

The Commission is now requesting parties, interested parties, and interested persons to comment on the Test Claim as specified below.

### **Review of Test Claim**

Parties, interested parties, and interested persons receiving this letter are requested to analyze the merits of the Test Claim and to file written comments on or before **November 26, 2018** in accordance with sections 1183.2 and 1181.3 of the Commission's regulations. Oral or written representations of fact offered by any person shall be under oath or affirmation and signed under penalty of perjury by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge, information, or belief. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) If new representations of fact are made, they must be supported with documentary evidence filed with the comments on the Test Claim. (Cal. Code. Regs., tit. 2 §§ 1183.2 and

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<sup>1</sup> This is unusual in that, generally, a test claim functions similarly to a class action but here the Director of the Santa Ana Board acted by sending an individual letter "order" to each co-permittee, as opposed to the Board adopting and issuing a single order for all co-permittees.

1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.<sup>2</sup> Requests for extensions of time to file comments may be filed in accordance with section 1187.9 of the Commission's regulations.

### **Claimant's Rebuttal**

Written rebuttals to written comments concerning this Test Claim may be filed and served in accordance with section 1181.3 of the Commission's regulations within 30 days of service of the written comments. (Cal. Code. Regs., tit. 2 § 1183.3.) Oral or written representations of fact offered by any person shall be under oath or affirmation and signed under penalty of perjury by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge, information or belief. (Cal. Code. Regs., tit. 2 §§ 1183.3 and 1187.5.) If new representations of fact are made, they must be supported with documentary evidence filed with the rebuttal. (Cal. Code. Regs., tit. 2 §§ 1183.3 and 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.<sup>3</sup>

### **Request for Administrative Record**

In addition, this letter is a request that the Santa Ana Regional Water Quality Control Board and the State Water Resources Control Board (as applicable) provide copies of:

- a) The official administrative record of the California Regional Water Quality Control Board, Santa Ana Region, Water Code Section 13383 Order to Submit Method to Comply with Statewide Trash Provisions; Requirements for Phase I Municipal Separate Storm Sewer System (MS4) Co-Permittees within the Jurisdiction of the Santa Ana Regional Water Quality Control Board, Effective June 2, 2017; and
- b) The official administrative record of the California State Water Resources Control Board California Regional Water Quality Control Board, Santa Ana Region, Water Code Section 13383 Order to Submit Method to Comply with Statewide Trash Provisions; Requirements for Phase I Municipal Separate Storm Sewer System (MS4) Co-Permittees within the Jurisdiction of the Santa Ana Regional Water Quality Control Board, Effective June 2, 2017.

Specifically, the Commission requests the record that was before the board(s) when they considered or adopted California Regional Water Quality Control Board, Santa Ana Region, Water Code Section 13383 Order to Submit Method to Comply with Statewide Trash Provisions; Requirements for Phase I Municipal Separate Storm Sewer System (MS4) Co-Permittees within the Jurisdiction of the Santa Ana Regional Water Quality Control Board, Effective June 2, 2017 and on which they based their decision with regard to the permit requirements.

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<sup>2</sup> Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

<sup>3</sup> Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

Please provide these documents as soon as possible but not later than **November 26, 2018**.

### **Process for Filing Comments**

The Commission has prepared a mailing list of parties, interested parties, and interested persons for this Test Claim. The mailing list will be uploaded to the Commission's website and an e-mail notification of its availability will be sent to everyone on the list who has provided an e-mail address. A hard copy will be provided to persons who have not provided an e-mail address and to any person who requests a hard copy. (Cal. Code. Regs., tit. 2 § 1181.4.)

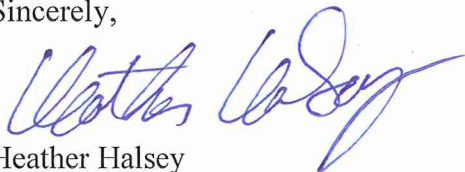
You are advised that if written materials are filed in hard copy, the filing must simultaneously be served on everyone on the mailing list, and be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents on the Commission's website. For instructions on electronic filing, please see the Commission's website at [http://www.csm.ca.gov/dropbox\\_procedures.php](http://www.csm.ca.gov/dropbox_procedures.php). The comments will be posted on the Commission's website and the mailing list will be notified by electronic mail of the posting and the comment period. This procedure will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.3.

### **Tentative Hearing Date**

This Test Claim is tentatively set for hearing on **May 22, 2020**, but may be set for hearing at an earlier time if consolidated with other *Santa Ana Regional Water Quality Control Board, Trash Order* test claims.

The executive director will determine whether to consolidate the *Santa Ana Regional Water Quality Control Board, Trash Order* test claims (17-TC-07 through 17-TC-24) for hearing after the files are closed and legal staff reviews the records.

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 October 25, 2018, I served the:

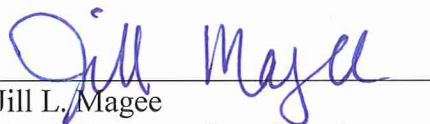
- **Notice of Complete Test Claim, Schedule for Comments, Request for Administrative Record, and Notice of Tentative Hearing Date issued October 25, 2018**
- **Test Claim filed by the City of Huntington Beach on May 31, 2018**

*Water Code Section 13383(a) Phase I MS4 Trash Order Issued to City of Huntington Beach, Santa Ana Regional Water Quality Control Board, Effective June 2, 2017, 17-TC-09*

City of Huntington Beach, Claimant

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 October 25, 2018 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:** 10/16/18

**Claim Number:** 17-TC-09

**Matter:** Water Code Section 13383(a) Phase I MS4 Trash Order Issued to City of  
Huntington Beach, Santa Ana Regional Water Quality Control Board, Effective  
June 2, 2017

**Claimant:** City of Huntington Beach

### 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.)

**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

**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

**Cindy Black**, *City Clerk, City of St. Helena*

1480 Main Street, St. Helena, CA 94574

Phone: (707) 968-2742

ctzafopoulos@cityofstheleena.org

**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

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*  
Local Government Programs and Services, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 324-5919  
ECalderonYee@sco.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

**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

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

**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@muni1.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

**Donna Ferebee**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274  
donna.ferebee@dof.ca.gov

**Adam Fischer**, *Santa Ana Regional Water Quality Control Board*  
3737 Main Street, Suite 500, Riverside, CA 92501  
Phone: (951) 320-6363  
afischer@waterboards.ca.gov

**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

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

**Tom Herbel**, City Engineer, *City of Huntington Beach*  
**Claimant Representative**  
Public Works Department, 2000 Mail Street PO Box 190, Huntington Beach, CA 92648  
Phone: (714) 375-5077  
Tom.Herbel@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

**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

**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

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

**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

**Erika Li**, Program Budget Manager, *Department of Finance*  
915 L Street, 10th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
erika.li@dof.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

**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

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*  
925 L Street, Sacramento, CA 95814  
Phone: (916) 319-8320  
Lourdes.Morales@LAO.CA.GOV

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

**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

**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@atc.sbcounty.gov

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

**David Rice**, *State Water Resources Control Board*  
1001 I Street, 22nd Floor, Sacramento, CA 95814  
Phone: (916) 341-5161  
davidrice@waterboards.ca.gov

**Teresita Sablan**, *State Water Resources Control Board*  
1001 I Street, 22nd Floor, Sacramento, CA 95814  
Phone: (916) 341-5174  
Teresita.Sablan@waterboards.ca.gov

**Theresa Schweitzer**, *City of Newport Beach*



100 Civic Center Drive, Newport Beach, CA 92660  
Phone: (949) 644-3140  
tschweitzer@newportbeachca.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

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

**Hope Smythe**, Executive Officer, *Santa Ana Regional Water Quality Control Board*  
3737 Main Street, Suite 500, Riverside, CA 92501-3348  
Phone: (951) 782-4493  
Hope.Smythe@waterboards.ca.gov

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

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

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

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

**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

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

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

**Fred Wilson**, City Manager, *City of Huntington Beach*  
2000 Main Street, Huntington Beach, CA 92648  
Phone: (714) 375-8465  
Fred.Wilson@surfcity-hb.org

**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