



October 25, 2018

Mr. John Kappeler
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Ms. Grace Leung
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

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

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 Newport Beach, Santa Ana Regional Water Quality Control Board, Effective June 2, 2017, 17-TC-10
City of Newport Beach, Claimant

Dear Mr. Kappeler, and Mss. Leung, Li, Smythe, and Sobeck:

On May 31, 2018, the City of Newport Beach filed the above-captioned Test Claim *which is applicable to the City of Newport Beach only*.¹ 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 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence

¹ 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.

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in the record.² 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.³

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.

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

² 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.

³ 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.

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.)

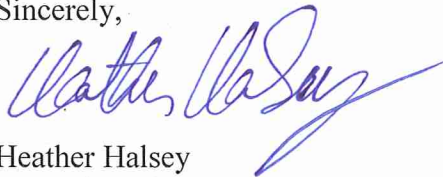
You are advised that if written materials are filed in hard copy, the filing must simultaneously be served on everyone on the mailing list, and be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents on the Commission's website. For instructions on electronic filing, please see the Commission's website at http://www.csm.ca.gov/dropbox_procedures.php. 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 **July 24, 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 Orange on May 31, 2018**

*Water Code Section 13383(a) Phase I MS4 Trash Order Issued to City of Orange,
Santa Ana Regional Water Quality Control Board, Effective June 2, 2017,
17-TC-11
City of Orange, 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-10

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

Claimant: City of Newport 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

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

John Kappeler, Senior Engineer, *City of Newport Beach*
Claimant Representative
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3218
jkappeler@newportbeachca.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

Grace Leung, City Manager, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3001
gleung@newportbeachca.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.Sobeck@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

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