

BURHENN & GEST LLP
624 SOUTH GRAND AVENUE
SUITE 2200
LOS ANGELES, CALIFORNIA 90017-3321
(213) 688-7715
FACSIMILE (213) 624-1376
WWW.BURHENNGEST.COM

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Commission on
State Mandates

WRITER'S DIRECT NUMBER
(213) 629-8788

WRITER'S E-MAIL ADDRESS
dburhenn@burhenngest.com

June 9, 2017

VIA DROP BOX

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

Re: *Santa Ana Region Water Permit – County of San Bernardino, 10-TC-10 – Question Regarding Capacity of Auditor-Controller to Sign Test Claim for Flood Control District*

Dear Ms. Halsey:

I am writing this letter on behalf of test claimant San Bernardino County Flood Control District (“District”) to seek staff’s advice regarding the capacity of the San Bernardino County Auditor-Controller/Treasurer/Tax Collector, Oscar Valdez, to sign a test claim form on behalf of the District.

As you know, the Commission’s regulations set forth that with respect to special districts, a “general manager or other officer with authority delegated by the governing body or ordinance or resolution” may sign on its behalf. 2 Cal. Code Reg. § 1183.1(a)(5). The District does not, however, have any employee with the title of “general manager.”

However, pursuant to the San Bernardino County Flood Control Act, Cal. Uncod. Water Code, Act 1060 section 3 (Deering), the statute which governs the operation of the District, the “county auditor” is listed among the county officers that “shall be ex officio officers” etc. of the District and who “shall respectively perform . . . the same various duties for said district as for said San Bernardino County, in order to carry out the provisions of this act.” I have attached relevant provisions of the Act for your convenience.

BURHENN & GEST LLP

Ms. Heather Halsey

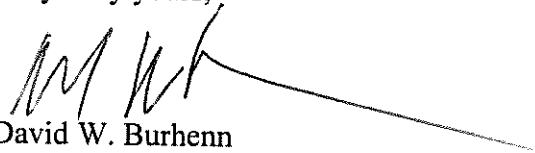
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In light of this statutory provision, the District would like to obtain your office's concurrence that Mr. Valdez can sign the test claim form on its behalf. We are raising this question now to avoid confusion and delay at the time of the filing of the District's response to the Notice of Incomplete Test Claim dated April 6, 2017.

I would appreciate it greatly if you could please advise the undersigned of staff's position at your earliest convenience. Thank you in advance for your consideration of this request.

Very truly yours,



David W. Burhenn

cc: Mr. Oscar Valdez, San Bernardino County Auditor-Controller/Treasurer/Tax
Collector
San Bernardino County Counsel

DB:dwb

Cal Uncod Water Deer, Act 1060 § 3

Deering's California Codes are current with urgency legislation through Chapter 9 of the 2017 Regular Session.

Deering's California Code Annotated > WATER--UNCODIFIED ACTS > ACT 1060. San Bernardino County Flood Control Act (1939 ch 73)

§ 3. Board of supervisors; Officers; Employment of special counsel and appointment of officers, etc.; Legislative acts

The board of supervisors of San Bernardino County shall be, and they are hereby designated as, and empowered to act as, ex officio the board of supervisors of said San Bernardino County Flood Control District, and said board of supervisors is hereby vested with the same powers and shall perform the same duties for and on behalf of said district, and the government thereof, to carry out the objects and purposes of this act that the board of supervisors of San Bernardino County now have or may hereafter have by law for said San Bernardino County, and shall also have such other or additional powers for said district as may be necessary to carry out any of the objects or purposes of this act, or to exercise any of the said powers of said district; provided, that such powers and duties are not in conflict with the express terms of this act.

The district attorney, county surveyor, county highway commissioner, county assessor, county tax collector, county auditor and county treasurer of the county of San Bernardino, and their successors in office, and all their assistants, deputies, clerks and employees, and all other officers of said San Bernardino County, their assistants, deputies, clerks and employees, shall be ex officio officers, assistants, deputies, clerks and employees respectively of said San Bernardino County Flood Control District, and shall respectively perform, unless otherwise provided by said board of supervisors, the same various duties for said district as for said San Bernardino County, in order to carry out the provisions of this act.

Said board of supervisors may in their discretion employ special counsel and appoint a chairman, a secretary and such other officers, agents and employees of said board or district as in their judgment may be deemed necessary, prescribe their duties and fix their compensation, said officers, agents and employees to hold their respective offices or positions during the pleasure of said board.

All ordinances, resolutions and other legislative acts for said district shall be adopted by said board of supervisors, and certified to, recorded and published, in the same manner, except as herein otherwise expressly provided, as are ordinances, resolutions or other legislative acts for the county of San Bernardino.

History

Added Stats 1939 ch 73 p 1011.

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.

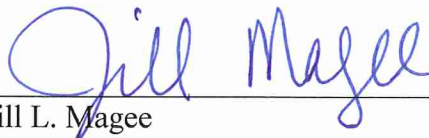
On June 20, 2017, I served the:

- **Response to Claimant Question Regarding Whether the County Auditor-Controller May Act as Claimant and Certify a Test Claim for the San Bernardino County Flood Control District; and Notice of Extension Request Approval issued June 20, 2017**
- **Claimants' Request for Extension filed June 15, 2017**
- **Claimants' Comments filed June 9, 2017**

Santa Ana Region Water Permit – County of San Bernardino, 10-TC-10
County of San Bernardino, San Bernardino County Flood Control District,
Cities of Big Bear Lake, Chino, Chino Hills, Colton, Fontana, Highland,
Montclair, Ontario, and Rancho Cucamonga, Co-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 June 20, 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-10

Matter: Santa Ana Region Water Permit - County of San Bernardino

Claimants: City of Big Bear Lake
City of Chino
City of Chino Hills
City of Colton
City of Fontana
City of Highland
City of Montclair
City of Ontario
City of Rancho Cucamonga
County of San Bernardino
San Bernardino County Flood Control 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.)

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

Konradt Bartlam, *City Manager, City of Chino Hills*

14000 City Center Drive, Chino Hills, CA 91709

Phone: (909) 364-2600

citymanager@chinohills.org

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

Kurt Berchtold, Executive Officer, *Santa Ana Regional Water Quality Control Board*
3737 Main Street, Suite 500, Riverside, CA 92501-3348
Phone: (951) 782-3286
kberchtold@waterboards.ca.gov

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

David Burhenn, *Burhenn & Gest, LLP*
Claimant Representative
624 South Grand Avenue, Suite 2200, Los Angeles, CA 90017
Phone: (213) 629-8788
dburhenn@burhenngest.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

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@munil.com

Mike Cory, Acting Public Works & Utility Services Director, *City of Colton*
650 N La Cadena Dr, Colton, CA 92324

Phone: (909) 370-5065
mcory@coltonca.gov

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

Gregory Devereaux, Chief Executive Officer, *County of San Bernardino*
San Bernardino County Flood Control District, 385 North Arrowhead Avenue, Fifth Floor, San
Bernardino, CA 92415-0120
Phone: (909) 387-5417
gdevereaux@cao.sbcounty.gov

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

John Gillison, City Manager, *City of Rancho Cucamonga*
10500 Civic Center Drive, Rancho Cucamonga, CA 91730
Phone: (909) 477-2700
john.gillison@cityofrc.us

Patrick Glover, City Manager, *City of Chino*
13220 Central Avenue, Chino, CA 91710
Phone: (909) 591-9806
pglover@cityofchino.org

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

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

Michael Hudson, City Engineer, *City of Montclair*
5111 Benito Street, Montclair, CA 91763
Phone: (909) 625-9441
mhudson@cityofmontclair.org

Chris Hughes, City Manager, *City of Ontario*
393 E. B Street, Ontario, CA 91764
Phone: (909) 395-2555
chughes@ci.ontario.ca.us

Joseph Hughes, City Manager, *City of Highland*
27215 Base Line, Highland, CA 92346
Phone: (909) 864-6861
jhughes@cityofhighland.org

Kenneth Hunt, City Manager, *City of Fontana*
8353 Sierra Avenue, Fontana, CA 92335
Phone: (909) 350-7653
khunt@fontana.org

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

Amer Jakher, Director of Public Works, *City of Beaumont*
550 E. Sixth Street, Beaumont, CA 92223
Phone: (951) 769-8520
Ajakher@ci.beaumont.ca.us

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

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

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

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

David Lawrence, Director of Public Works/City Engineer, *City of Big Bear Lake*
P.O. Box 10000, 39707 Big Bear Blvd., Big Bear Lake, CA 92315-8900
Phone: (909) 866-5831
dlawrence@citybigbearlake.com

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

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

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

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

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

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

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

Evelyn Tseng, *City of Newport Beach*

100 Civic Center Drive, Newport Beach, CA 92660

Phone: (949) 644-3127

etseng@newportbeachca.gov

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

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