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**RECEIVED**  
November 16, 2018  
*Commission on  
State Mandates*

November 16, 2018

Via Drop box

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

Re: Request for Consolidation of Test Claims (17-TC-07 through 17-TC-24) on Water Code Section 13383 Phase I MS4 Trash Orders Issued by the Santa Ana Regional Water Quality Control Board, Effective June 2, 2017

Dear Ms. Halsey,

I am the Claim Representative for the County of Orange concerning Test Claim Number 17-TC-24, one of the above-referenced test claims recently deemed complete by Commission staff. I write to request that, pursuant to section 1183.5 of the California Code of Regulations (Commission Regulations), you exercise your authority as Executive Director to consolidate all the test claims filed by Orange County MS4 permittees on the Water Code Section 13383 Phase I MS4 Trash Order Issued by the Santa Ana Regional Water Quality Control Board, 17-TC-08 through 17-TC-24 ("Test Claims"). The County has conferred with the Orange County MS4 permittee Test Claimants, and they support this request.

Section 1183.5(a) of the Commission Regulations states, in pertinent part, that "the executive director may consolidate part or all of any test claim with another test claim..., if necessary to ensure the complete, fair or timely consideration of any test claim."<sup>1</sup>

As you may be aware from your initial review, the Test Claims concern Water Code section 13383 orders issued by the Santa Ana Regional Water Quality Control Board (Regional Board), pursuant to the State Water Resources Control Board's (State Water Board) *Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water*

<sup>1</sup> 2 Cal Reg. Code 1183.5(a)

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Executive Director  
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*Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (Trash Amendments). As explained in the Test Claims, the Regional Board issued its Water Code section 13383 orders individually to each Orange County MS4 permittee within its jurisdiction. However, notwithstanding their individual nature, the orders are, for all intents and purposes, substantively identical. As a result, there are common questions of law and fact amongst the Test Claims as to whether the provisions of the order constitute reimbursable state mandates. Consolidation would enable consistent and timely decision-making on the Test Claims, thereby ensuring fairness to all Test Claimants.

Additionally, consolidation would generate efficiencies that would not be available were the Test Claims to be addressed in eighteen separate proceedings. For example, consolidation would allow the Test Claimants to coordinate on claim management and briefing efforts, possibly avoiding the submission of duplicative evidence and eighteen different versions of documents, such as comments and rebuttal comments. Responding parties, the Regional Board, State Water Board (collectively, “the Water Boards”) and the Department of Finance (“DOF”), may realize similar efficiencies, as may Commission staff, who, as you explained in prior (unrelated) correspondence, face staffing and workflow realities which can impact the progression of test claims.<sup>2</sup> Under the circumstances, consolidation is necessary to ensure that the Test Claims are considered in as timely, consistent, and orderly manner as possible.

Finally, based on communications with counsel for the Water Boards, it is my understanding that the Water Boards and the DOF support consolidation of the Test Claims. Accordingly, the Test Claims should be consolidated under your authority pursuant to Commission Regulation 1183.5(a).

Please notify me as soon as possible whether you will take the requested action. To allow for due consideration without prejudice to the Test Claimants, I kindly ask that you also extend the time within which Test Claimants may seek consolidation by formal motion (if necessary) under Commission Regulation 1183.4,<sup>3</sup> and that this extension be no less than 30 days from the date upon which you notify us of your decision as to the consolidation request herein.

Thank you in advance for your prompt consideration and response. If you have any questions regarding this matter, please contact me at the number and e-mail address above.

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<sup>2</sup> See Response to Claimants’ Inquiry Regarding Hearing Date and Notice of Tentative Hearing Date, 09-TC-003 and 10-TC-11, April 19, 2018.

<sup>3</sup> 2 Cal. Reg. Code 1183.4; see also Cal. Govt. Code 17554.

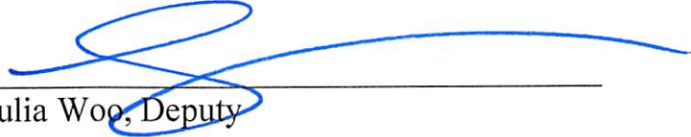
Ms. Heather Halsey  
Executive Director  
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I declare under penalty of perjury that the foregoing, signed on November 16, 2018, is true and correct to the best of my personal knowledge, information, or belief.

Very truly yours,

LEON J. PAGE  
COUNTY COUNSEL

By

  
\_\_\_\_\_  
Julia Woo, Deputy

cc: Teresita Sablan – [Teresita.Sablan@Waterboards.ca.gov](mailto:Teresita.Sablan@Waterboards.ca.gov)  
Susan Geanacou – [Susan.Geanacou@dof.ca.gov](mailto:Susan.Geanacou@dof.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 November 19, 2018, I served the:

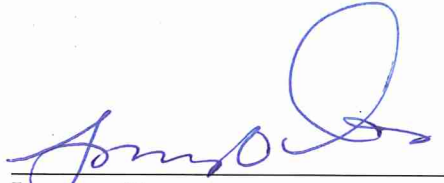
- **Claimant's Request for Consolidation of Test Claims filed November 16, 2018**

*Water Code Section 13383(a) Phase I MS4 Trash Order Issued to County of Orange, Santa Ana Regional Water Quality Control Board, Effective June 2, 2017, 17-TC-24*

County 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 November 19, 2018 at Sacramento, California.



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Lorenzo Duran  
Commission on State Mandates  
980 Ninth Street, Suite 300  
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(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 11/16/18

**Claim Number:** 17-TC-24

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

**Claimant:** County of Orange

### 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.)

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