

STATE *of* CALIFORNIA
**COMMISSION ON STATE
MANDATES**



**REPORT TO THE
LEGISLATURE:
APPROVED MANDATE CLAIMS**

**July 1, 2024 –
December 31, 2024**

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I. INTRODUCTION

Commission on State Mandates

Test Claim Process

Article XIII B, section 6 of the California Constitution requires the state to provide a subvention of funds to reimburse local government for the costs of new programs or increased levels of service mandated by the state. To implement this constitutional provision, the Legislature created the Commission on State Mandates (Commission) to succeed the State Board of Control in making determinations whether new statutes or executive orders are state-mandated programs.¹ The Commission was established to render sound quasi-judicial decisions and to provide an effective means of resolving disputes over the existence of state-mandated local programs. The Commission provides the sole and exclusive procedure for local agencies and school districts (claimants) to resolve disputes over the existence of state-mandated local programs and costs mandated by the state. The Commission is required to hear and decide claims (test claims) filed by local agencies and school districts that they are entitled to be reimbursed by the state for costs mandated by the state.²

Parameters and Guidelines

Government Code section 17557 provides that if the Commission determines that a statute or executive order imposes a mandate upon local agencies and school districts, the Commission is required to determine the amount to be subvented to local agencies and school districts for reimbursement by adopting parameters and guidelines. In adopting parameters and guidelines, the Commission may adopt a reasonable reimbursement methodology (RRM). Once parameters and guidelines are adopted, the Commission is required to adopt a statewide cost estimate of the mandated program.³

Alternative Processes

Government Code sections 17557.1 and 17557.2 provide an alternate process for determining the amount to be subvented for mandated programs. Under 17557.1, local governments and the Department of Finance may jointly develop RRMs and statewide estimates of costs for mandated programs for approval by the Commission in lieu of parameters and guidelines and statewide cost estimates. Government Code section 17557.2 requires that joint RRMs have broad support and, if approved, they remain in effect for five years unless otherwise specified. Jointly developed RRMs and statewide estimates of costs that are approved by the Commission are included in the Commission's Annual Reports to the Legislature. To date, only one jointly developed RRM has ever been approved and it expired and was not extended by the parties, so the Commission adopted parameters and guidelines for that program.

Government Code sections 17572 and 17573 provide another alternative process where the Department of Finance and local agencies, school districts, or statewide associations may jointly request that the Legislature determine that a statute or executive order imposes a state-mandated program, establish a reimbursement

¹ Statutes 1984, chapter 1459, Government Code section 17500, et seq.

² Government Code section 17551.

³ Government Code section 17553.

methodology, and appropriate funds for reimbursement of costs. This process is intended to bypass the Commission's test claim process, thus providing the Commission with more time to complete the caseload backlog. To date, this process has not been successfully utilized.

Report to the Legislature

The Commission is required to report to the Legislature at least twice each calendar year on the number of mandates it has found, the estimated statewide costs of each mandate, and the reasons for recommending reimbursement.⁴ In 2010, the Commission was required to expand its Report to the Legislature to include:

- The status of pending parameters and guidelines that include proposed reimbursement methodologies.
- The status of pending joint proposals between the Department of Finance and local governments to develop reasonable reimbursement methodologies in lieu of parameters and guidelines.
- The status of joint proposals between the Department of Finance and local governments to develop legislatively-determined mandates.
- Any delays in the process for completion of reasonable reimbursement methodologies.⁵

This report fulfills these requirements.

Legislative Analyst

After the Commission submits its report to the Legislature, the Legislative Analyst is required to submit a report to the Joint Legislative Budget Committee and legislative fiscal committees on the mandates included in the Commission's reports. The Legislative Analyst's report shall make recommendations as to whether each mandate should be repealed, funded, suspended, or modified.

The Legislature

Upon receipt of the report submitted by the Commission pursuant to Government Code Section 17600, funding shall be provided in the subsequent Budget Act for costs incurred in prior years. No funding shall be provided for years in which a mandate is suspended.⁶

The Legislature may amend, modify, or supplement the parameters and guidelines, RRM's, and adopted statewide estimates of costs for the initial claiming period and budget year for mandates contained in the annual Budget Act. If the Legislature amends, modifies, or supplements the parameters and guidelines, RRM's, or adopted statewide estimates of costs for the initial claiming period and budget year, it shall make a declaration in separate legislation specifying the basis for the amendment, modification, or supplement.⁷

⁴ Government Code section 17600.

⁵ SB 894 (Stats. 2010, ch. 699).

⁶ Government Code section 17612(a).

⁷ Government Code section 17612(b).

Mandate Funding Provisions

If the Legislature deletes from the annual Budget Act funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement for that fiscal year.⁸ Under Proposition 1A, which amended article XIII B, section 6 of the California Constitution, city, county, city and county, or special district mandate claims for costs incurred prior to the 2004-2005 fiscal year that have not been paid prior to the 2005-2006 fiscal year may be paid over a term of years, as prescribed by law. However, for the 2005-2006 fiscal year and every subsequent fiscal year, the Constitution now requires the Legislature to either appropriate in the annual Budget Act the full payable amount that has not been previously paid or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable.

If payment for an initial reimbursement claim is being made more than 365 days after adoption of the statewide cost estimate, the State Controller’s Office (Controller) shall include accrued interest at the Pooled Money Investment Account rate.⁹

If the amount the Legislature appropriates is insufficient to pay all of the reimbursement claims filed and approved for reimbursement, the Controller will prorate the claims.¹⁰ If the funds to cover the remaining deficiency are not appropriated in the Budget Act, the Controller shall report this information to the legislative budget committees and the Commission.

II. NEW MANDATES

The following table shows the Statewide Cost Estimates that were adopted during the period of July 1, 2024 through December 31, 2024.

**Statewide Cost Estimates (SCE) Adopted
During the Period of July 1, 2024 through December 31, 2024**

<i>Adopt Date</i>	<i>Test Claim Name and Number</i>	<i>Initial Claiming Period</i>	<i>Education (K-14)</i>	<i>Local Agency</i>	<i>Total Estimated Costs for Initial Claiming Period</i>	<i>Estimated Future Annual Costs</i>
7/26/24	California Regional Water Quality Control Board, Santa Ana	6/1/2009 to 12/31/2017	-	\$459,106 - \$690,409	\$459,106 - \$690,409	\$0 ¹¹

⁸ Government Code section 17612(c).

⁹ Government Code section 17561.5(a).

¹⁰ Government Code section 17567.

¹¹ The entire reimbursement period is within the initial claim period because the Commission found the mandate is not reimbursable beginning January 1, 2018 since the claimants have fee authority, sufficient as a matter of law, to pay for the reimbursable activities pursuant to Government Code section 17556(d).

<i>Adopt Date</i>	<i>Test Claim Name and Number</i>	<i>Initial Claiming Period</i>	<i>Education (K-14)</i>	<i>Local Agency</i>	<i>Total Estimated Costs for Initial Claiming Period</i>	<i>Estimated Future Annual Costs</i>
	<i>Region, Order No. R8-2009-0030, Sections XI.4, XIII.1, XIII.4, XIII.7, XVIII.B.8, and XVIII.B.9., 09-TC-03</i>					
11/22/24	<i>California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016, Sections D.2., G.1.d., G.3.-5., K.3.c.1.-4., and Attachment E., Section II. E.2.-5, 11-TC-03</i>	11/10/2010 to 12/31/2017	-	\$238,301 - \$334,104	\$238,301 - \$334,104	\$0 ¹²
TOTAL				\$697,407 - \$1,024,513	\$697,407 - \$1,024,513	\$0

III. PENDING PARAMETERS AND GUIDELINES, REQUESTS TO AMEND PARAMETERS AND GUIDELINES, AND STATEWIDE COST ESTIMATES CASELOAD

The following tables show parameters and guidelines, requests to amend parameters and guidelines, and statewide cost estimates that are pending Commission determination. A request to include an RRM in parameters and guidelines or amendments is a request made by a local entity claimant, an interested party, Finance, the Controller, or an affected state agency, pursuant to Government Code section 17557 and 17518.5 – which is distinct from the jointly proposed RRM, discussed above

¹² The entire reimbursement period is within the initial claim period because the Commission found the mandate is not reimbursable beginning January 1, 2018 since the claimants have fee authority, sufficient as a matter of law, to pay for the reimbursable activities pursuant to Government Code section 17556(d).

under “Alternative Processes.” These requests are often disputed by one or more of the parties and interested parties. There is one pending Parameters and Guidelines that includes an RRM proposed by the claimants in their comments filed on the Draft Proposed Decision and Parameters and Guidelines.

A. Pending Parameters and Guidelines

	Program	Status
1.	<i>California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-0001, Permit CAS0108758, Parts D.1.d.(7)-(8), D.1.g., D.3.a.(3), D.3.a.(5), D.5, E.2.f, E.2.g, F.1, F.2, F.3, I.1, I.2, I.5, J.3.a.(3)(c)iv-viii & x-xv, and L, 07-TC-09-R*</i>	Tentatively scheduled for hearing on 5/23/25 ¹³

* Local agency programs

† School district or community college district programs

B. Pending Requests for Parameters and Guidelines Amendments

No Parameters and Guidelines Amendments (PGAs) were pending during the period of July 1, 2024 through December 31, 2024

C. Pending Statewide Cost Estimates

	Program	Status
1.	<i>California Regional Water Quality Control Board, San Diego Region, Order No. R9-2009-0002, 10-TC-11*</i>	Set for hearing on 1/24/25
2.	<i>California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2010-0033, 10-TC-07*</i>	Tentatively scheduled for hearing on 3/28/25
3.	<i>Public School Restrooms: Menstrual Products, 22-TC-04†</i>	Tentatively scheduled for hearing on 5/23/25
4.	<i>Free Application for Federal Student Aid (FAFSA), 22-TC-05†</i>	Tentatively scheduled for hearing on 5/23/25
5.	<i>Disclosure Requirements and Deferral of Property Taxation, 22-TC-06*</i>	Tentatively scheduled for hearing on 7/25/25

* Local agency programs

† School district or community college district programs

IV. THERE ARE NO PENDING JOINT REASONABLE REIMBURSEMENT METHODOLOGIES OR LEGISLATIVELY-DETERMINED MANDATES AND HENCE, NO DELAYS IN THE PROCESS

There are no currently pending joint RRMs or legislatively-determined mandates (LDMs).

Government Code section 17600 requires the Commission to report any delays in the process for joint RRMs or LDMs being developed by Department of Finance and local

¹³ This matter is subject to extended comment periods by stipulation of the parties.

entities and for RRM's proposed by any party pursuant to Government Code section 17518.5. There are currently no pending joint RRM's, LDM's, or RRM's proposed by any party. Therefore, there are no delays in these processes.

Regarding RRM's included in parameters and guidelines amendments pursuant to Government Code sections 17557 and 17518.5, there are currently no pending parameters and guidelines or amendments thereto containing joint RRM's and therefore no delays in this process.

V. ADOPTED STATEWIDE COST ESTIMATES

A. California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030, Sections XI.4, XIII.1, XIII.4, XIII.7, XVIII.B.8, and XVIII.B.9, 09-TC-03

Adopted: July 26, 2024

STATEWIDE COST ESTIMATE

\$459,106 - \$690,409

Initial Claim Period¹⁴

(June 1, 2009 to December 31, 2017)

*California Regional Water Quality Control Board, Santa Ana Region,
Order No. R8-2009-0030, Sections XI.4, XIII.1, XIII.4, XIII.7, XVIII.B.8, and XVIII.B.9.*

09-TC-03

The Commission on State Mandates (Commission) adopted this Statewide Cost Estimate on consent by a vote of 5-0 during a regularly scheduled hearing on July 26, 2024 as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Shannon Clark, Representative of the Director of the Office of Planning and Research	Yes
Deborah Gallegos, Representative of the State Controller	Yes
Renee Nash, School District Board Member	Yes
William Pahland, Representative of the State Treasurer, Vice Chairperson	Yes
Michelle Perrault, Representative of the Director of the Department of Finance, Chairperson	Absent

STAFF ANALYSIS

Summary of the Mandate, Eligible Claimants, and Period of Reimbursement

¹⁴ The entire reimbursement period is within the initial claim period because the Commission found the mandate is not reimbursable beginning January 1, 2018 since the claimants have fee authority, sufficient as a matter of law, to pay for the reimbursable activities pursuant to Government Code section 17556(d).

This Statewide Cost Estimate addresses state-mandated activities arising from National Pollutant Discharge Elimination System (NPDES) Order No. R8-2009-0030, adopted by the Santa Ana Regional Water Quality Control Board on May 22, 2009.

The Commission adopted the Test Claim Decision on March 24, 2023, partially approving reimbursement for permittees that incur increased costs to perform the reimbursable activities under the mandate. The Commission adopted the Decision and Parameters and Guidelines on September 22, 2023. The permittees include the County of Orange, the Orange County Flood Control District, and the cities of Anaheim, Brea, Buena Park, Costa Mesa, Cypress, Fountain Valley, Fullerton, Garden Grove, Huntington Beach, Irvine, Laguna Hills, Laguna Woods, La Habra, La Palma, Lake Forest, Los Alamitos, Newport Beach, Orange, Placentia, Santa Ana, Seal Beach, Stanton, Tustin, Villa Park, Westminster and Yorba Linda.¹⁵

The initial reimbursement period, which is also the entire reimbursement period, is from June 1, 2009, through December 31, 2017 (the last month of 2008-2009 through first half of 2017-2018).¹⁶ Eligible claimants were required to file initial claims with the State Controller's Office (Controller) by April 25, 2024. Late initial reimbursement claims may be filed until April 25, 2025, but will incur a 10 percent late filing penalty of the total amount of the initial claim without limitation.¹⁷

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

- A. Submit a proposed Cooperative Watershed Program that will fulfill applicable requirements of the selenium TMDL implementation plan within 24 months of adoption of the test claim permit, or one month after approval of the Regional Board selenium TMDLs by the Office of Administrative Law (OAL), whichever is later. (Order No. R8-2009-0030, Section XVIII.B.8.)
- B. Develop a "constituent-specific source control plan" for copper, lead, and zinc, including a monitoring program, to ensure compliance" with WLAs [waste load allocations] for dry and wet weather runoff, which were derived from the 2007 San Gabriel River Metals TMDL jointly developed by the Los Angeles Water Board and U.S. EPA. (Order No. R8-2009-0030, Section XVIII.B.9.)¹⁸
- C. Public education program:
 1. By July 1, 2012, the one-time activity to complete a public awareness survey to determine the effectiveness of the current public and business education strategy, and to include the findings of the survey and any proposed changes

¹⁵ Exhibit A, Decision and Parameters and Guidelines, adopted September 22, 2023, pages 6, 16.

¹⁶ Exhibit A, Decision and Parameters and Guidelines, adopted September 22, 2023, pages 5, 14.

¹⁷ Government Code section 17561(d)(3).

¹⁸ According to the permit, Activity B. applies to the permittees "with discharges to Coyote Creek or the San Gabriel River" and must be completed within 12 months of the date of permit adoption. Exhibit C (4), Regional Water Quality Control Board, Order No. R8-2009-0030, page 73 (test claim permit).

- to the current program in the annual report for 2011-2012. (Order No. R8-2009-0030, Section XIII.1.)
2. Permittees shall administer individual or regional workshops for each of the specified sectors (manufacturing facilities; mobile service industry; commercial, distribution, and retail sales industry; residential/commercial landscape construction and service industry; residential and commercial construction industry; and residential and community activities) by July 1, 2010 and annually thereafter. (Order No. R8-2009-0030, Section XIII.4.)
 3. The principal permittee, in collaboration with the co-permittees, shall develop and implement a mechanism for public participation in the updating and implementation of DAMPs, WQMP guidance, and Fact Sheets for “various activities.” The public shall be informed of the availability of these documents through public notices in local newspapers, County or city websites, local libraries, city halls, or courthouses. (Order No. R8-2009-0030, Section XIII.7.)
- D. Within 18 months of adoption, develop a pilot program to control pollutant discharges from common interest areas and areas managed by homeowner associations or management companies. (Order No. R8-2009-0030, Section XI.4.)¹⁹

Offsetting Revenues and Reimbursements

The Parameters and Guidelines specify that any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant’s proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.²⁰

Offsetting revenues identified in the reimbursement claims totaled \$449,920 for fiscal years 2008-2009 through 2010-2011, and 2012-2013 through 2016-2017 (no claims were filed for 2011-2012 or 2017-2018). Only the County of Orange identified offsetting revenue but did not disclose its source.²¹

Statewide Cost Estimate

All activities except for C.2., and C.3., are one-time activities and end within the first few years of the program. Therefore, all costs for Activities A., B., C.1., and D., are expected to be claimed for the first few years of the reimbursement period only. Costs for Activity C.2., however, are expected to be claimed for the entire reimbursement period ending December 31, 2017. As explained below, although Activity C.3. is

¹⁹ Exhibit A, Decision and Parameters and Guidelines, adopted September 22, 2023, pages 15-16.

²⁰ Exhibit A, Decision and Parameters and Guidelines, adopted September 22, 2023, page 19.

²¹ Exhibit C (6), Spreadsheet of Claims Data.

ongoing, costs are only expected to be claimed for the first couple years of the reimbursement period.

Staff reviewed 53 unaudited reimbursement claims submitted by 12 city claimants and Orange County, as compiled by the Controller. Staff developed the Statewide Cost Estimate based on the assumptions and methodology discussed herein. Table 1 below summarizes the cost estimates for all fiscal years, 2008-2009 to 2016-2017.

Table 1. Reimbursement Period Cost Estimate

Activity A. Submit a proposed Cooperative Watershed Program that will fulfill applicable requirements of the selenium TMDL implementation plan within 24 months of adoption of the test claim permit, or one month after approval of the Regional Board selenium TMDLs by OAL (April 19, 2019), ²² whichever is later.	\$513,282- \$627,344
Activity B. Develop a “constituent-specific source control plan” for copper, lead, and zinc, including a monitoring program, to ensure compliance” with WLAs for dry and wet weather runoff, which were derived from the 2007 San Gabriel River Metals TMDL jointly developed by the Los Angeles Water Board and U.S. EPA.	\$72,578 - \$114,914
Activity C.1. By July 1, 2012, complete a public awareness survey to determine the effectiveness of the current public and business education strategy, and include the findings of the survey and any proposed changes to the current program in the annual report for 2011-2012.	\$110,310 - \$237,585
Activity C.2. Administer individual or regional workshops for each of the specified sectors (manufacturing facilities; mobile service industry; commercial, distribution, and retail sales industry; residential/commercial landscape construction and service industry; residential and commercial construction industry; and residential and community activities) by July 1, 2010, and annually thereafter.	\$177,238 - \$381,748
Activity C.3. The principal permittee, in collaboration with the co-permittees, shall develop and implement a mechanism for public participation in the updating and implementation of DAMPs, WQMP guidance, and Fact Sheets for various activities. The public shall be informed of the availability of these documents through public notices in local newspapers, County or city websites, local libraries, city halls, or courthouses.	\$623 - \$1,455

²² The OAL approval date of April 19, 2019, is in the history of California Code of Regulations, title 23, section 3979.11.

Activity D. Within 18 months of adoption, develop a pilot program to control pollutant discharges from common interest areas and areas managed by homeowner associations or management companies.	\$17,256 - \$53,679
Indirect Costs identified	\$17,739 - \$28,601
Offsetting Revenue	\$449,920 - \$727,789
Late Filing Penalty	\$0 - \$27,128
Total Costs	\$459,106 - \$690,409

Assumptions

1. Except for Activities C.2., and C.3., all of the approved activities are one-time activities and therefore most costs are expected to be claimed only for the first few years of the reimbursement period.

- a. Activity A. requires the permittees to submit a proposed Cooperative Watershed Program that will fulfill applicable requirements of the selenium TMDL implementation plan within 24 months of adoption of the test claim permit, or one month after approval of the Regional Board selenium TMDLs by OAL (April 19, 2019),²³ whichever is later. All the claims for this activity were filed for the first three fiscal years of the claiming period, 2008-2009 to 2010-2011,²⁴ (The reimbursement period includes only June of fiscal year 2008-2009).

The selenium TMDL for the Cooperative Watershed Program applies to the following permittees: the County of Orange, Orange County Flood Control District (OCFCD), and the cities of Irvine, Laguna Hills, Laguna Woods, Lake Forest, Newport Beach, Orange, Tustin, and Santa Ana that discharge to the San Diego Creek Subwatershed; and the County of Orange, OCFCD, and the cities of Costa Mesa, Santa Ana and Newport Beach for the Santa Ana-Delhi Channel.²⁵

The claimants for Activity A. are the cities of Costa Mesa, Irvine, Laguna Hills, Laguna Woods, Lake Forest, Orange, Tustin, Newport Beach, and Orange County.²⁶ Therefore, the high estimate assumes only the remaining two permittees subject to the TMDL will file claims (Santa Ana and the OCFCD).

- b. Activity B. requires the permittees to develop a “constituent-specific source control plan” for copper, lead, and zinc to ensure compliance” with WLAs for

²³ The OAL approval date of April 19, 2019, is in the history of California Code of Regulations, title 23, section 3979.11.

²⁴ Exhibit C (6), Spreadsheet of Claims Data.

²⁵ Exhibit C (5), Regional Water Quality Control Board, Santa Ana Region, Excerpts of the Santa Ana River Basin Plan, https://www.waterboards.ca.gov/santaana/water_issues/programs/basin_plan/docs/2019/New/Chapter_6_June_2019.pdf (accessed on May 24, 2024), pages 6-88 to 6-89.

²⁶ Exhibit C (6), Spreadsheet of Claims Data.

dry and wet weather runoff. The plan, which was due “within 12 months of permit adoption” (by May 22, 2010),²⁷ included a monitoring program and was derived from waste load allocations in the 2007 San Gabriel River Metals TMDL jointly developed by the Los Angeles Water Board and U.S. EPA. According to the 2015-2016 Annual Progress Report and Program Effectiveness Assessment, this source control plan was finalized in June 2010.²⁸ The reimbursement claims for Activity B. were all filed for fiscal year 2009-2010 only,²⁹ and since this one-time activity was completed there are no other years for which to claim.

The workgroup of watershed cities that developed the Activity B. source control plan consisted of Anaheim, Brea, Buena Park, Cypress, Fullerton, La Habra, La Palma, Los Alamitos, Placentia, Seal Beach and Orange County.³⁰ However according to the permit, Activity B. applies to the permittees “with discharges to Coyote Creek or the San Gabriel River.”³¹ The TMDL lists the following permittee cities in the Coyote Creek basin: Anaheim, Brea, Buena Park, Cypress, Fullerton, Garden Grove, La Habra, La Palma, Los Alamitos, Placentia, Yorba Linda; and the following permittee cities in the San Gabriel River Basin (reaches 1 to 5): Garden Grove, Los Alamitos, and Seal Beach.³²

For Activity B. the following claimants submitted reimbursement claims: the cities of Anaheim, Buena Park, Costa Mesa, Fullerton, Irvine, Laguna Hills, Laguna Woods, Lake Forest, Orange (city), Tustin, Westminster, and Orange

²⁷ The test claim permit was *adopted* by the Regional Board on May 22, 2009, but had a later effective date of June 1, 2009. Exhibit C (4), Regional Water Quality Control Board, Order No. R8-2009-0030, page 82 (test claim permit).

²⁸. Exhibit C (2), Commission on State Mandates, Test Claim Decision on *California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030, Sections IX, X, XI, XII, XIII, and XVIII, Adopted May 22, 2009, 09-TC-03*, adopted March 24, 2023, <https://csm.ca.gov/decisions/09-tc-03-032423.pdf> (accessed on January 9, 2024), page 105.

²⁹ Exhibit C (6), Spreadsheet of Claims Data.

³⁰ Exhibit C (2), Commission on State Mandates, Test Claim Decision on *California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030, Sections IX, X, XI, XII, XIII, and XVIII, Adopted May 22, 2009, 09-TC-03*, adopted March 24, 2023, <https://csm.ca.gov/decisions/09-tc-03-032423.pdf> (accessed on January 9, 2024), page 105.

³¹ Exhibit C (4), Regional Water Quality Control Board, Order No. R8-2009-0030, page 73 (test claim permit).

³² Exhibit C (8), U.S. EPA, Region IX, Total Maximum Daily Load for Metals and Selenium, San Gabriel River and Impaired Tributaries, March 26, 2007, https://www.waterboards.ca.gov/losangeles/water_issues/programs/tmdl/Established/San%20Gabriel%20River%20Metals%20TMDL/final_sangabriel_metalstmdl_3-27-07.pdf (accessed on January 8, 2024), page 53.

County.³³ Some of these claimants participated in the workgroup to create the plan, but it is unclear what role claimants who filed initial claims but did not participate in the workgroup had in preparing the plan. The approved activity is only to create the plan but not to implement it.³⁴

The high estimate assumes, in addition to the local agencies that already claimed reimbursement for Activity B., only the seven permittees subject to the TMDL who participated in the workgroup but did not already claim (Brea, Cypress, La Habra, La Palma, Los Alamitos, Placentia, and Seal Beach) will claim reimbursement.

- c. Activity C.1. (public awareness survey) was to be completed by July 1, 2012. The Annual Progress Report and Program Effectiveness Assessment indicates the survey was conducted in May 2012.³⁵ All costs for one-time Activity C.1. were claimed for 2009-2010 and 2010-2011, with 96 percent of costs claimed (\$105,792 of \$110,310) for 2009-2010. It is assumed that this activity was completed in 2010-2011 and no costs for it will be claimed for fiscal years after fiscal year 2010-2011.
 - d. Activity D. (develop a pilot program to control pollutant discharges from common interest areas and areas managed by homeowner associations or management companies) was due within 18 months of permit adoption (by Nov. 22, 2010). Costs for Activity D. were claimed for 2010-2011, 2012-2013, 2013-2014, and 2014-2015, with 81 percent of the costs claimed for 2010-2011. Therefore, since the pilot program appears to have been completed, it is assumed no costs will be claimed for fiscal years after 2014-2015.
2. It is assumed ongoing costs for Activity C.2. will continue to be claimed for the entire reimbursement period, ending December 31, 2017. However, no additional costs are expected to be claimed for continuing Activity C.3., because costs for that activity were only claimed for the first couple years of the reimbursement period.
 - a. Activity C.2., to administer individual or regional workshops for each of the specified sectors (manufacturing facilities; mobile service industry; commercial, distribution, and retail sales industry; residential/commercial landscape construction and service industry; residential and commercial construction industry; and residential and community activities) by July 1, 2010 and annually thereafter continues throughout the reimbursement period and is assumed to make up all of the costs claimed for fiscal year

³³ It is unclear why non-workgroup and non-TMDL cities (Costa Mesa, Irvine, Laguna Hills, Laguna Woods, Lake Forest, Tustin, Westminster) claimed costs for Activity B.

³⁴ Exhibit C (2), Commission on State Mandates, Test Claim Decision on *California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030, Sections IX, X, XI, XII, XIII, and XVIII, Adopted May 22, 2009, 09-TC-03*, adopted March 24, 2023, <https://csm.ca.gov/decisions/09-tc-03-032423.pdf> (accessed on January 9, 2024), page 114.

³⁵ Exhibit C (7), Unified Annual Progress Report, Program Effectiveness Assessment, November 15, 2017, Section C-6.0, page C-6-15.

2015-2016 through the first half of fiscal year 2016-2017 (until December 31, 2017), other than minor indirect costs.

- b. Activity C.3. requires the principal permittee, in collaboration with the co-permittees, to develop and implement a mechanism for public participation in the updating and implementation of DAMPs, WQMP guidance, and Fact Sheets for various activities. The public shall be informed of the availability of these documents through public notices in local newspapers, County or city websites, local libraries, city halls, or courthouses. All claims for Activity C.3. were filed only for 2008-2009 and 2009-2010, so no costs for other fiscal years are expected to be claimed.
3. Consistent with the assumptions for the one-time activities A., B., C.1., and D., discussed above, the vast majority of costs claimed were for the first three fiscal years of the permit: 2008-2009, 2009-2010, and 2010-2011. The initial claims indicate that 86 percent of the total costs claimed (\$392,860 of \$459,106, net of offsets) are for fiscal years 2008-2009 through 2010-2011.
4. Activities A. and B. apply to only a subset of the permittees, so it is assumed only that subset of permittees will claim for those Activities.
5. The amount claimed for the period of reimbursement may also be higher if late or amended claims are filed. Only 13 of 28 eligible claimants (46 percent) filed claims for the reimbursement period.³⁶ The remaining 15 eligible claimants may still file late claims, and the 13 claimants who timely filed may file amended claims for additional costs.
6. As indicated by the claims filed, most or all the cities' claimed costs are for contracted services because the permit designated the County of Orange as the principal permittee and the city claimants paid the principal permittee for services under a cost sharing agreement. The County of Orange may only claim for its own expenses and not those incurred on behalf of the city claimants.³⁷
7. Costs may be lower if offsetting revenue was used by a claimant to pay for the reimbursement activities. The Test Claim Decision recognizes various types of non-tax revenue that could be offset,³⁸ and the Parameters and Guidelines state offsets include but are not limited to "state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement."³⁹ Only the County

³⁶ Exhibit C (6), Spreadsheet of Claims Data.

³⁷ Exhibit A, Decision and Parameters and Guidelines, adopted September 22, 2023, pages 12-14.

³⁸ Exhibit C (2), Commission on State Mandates, Test Claim Decision on *California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030, Sections IX, X, XI, XII, XIII, and XVIII, Adopted May 22, 2009, 09-TC-03*, adopted March 24, 2023, <https://csm.ca.gov/decisions/09-tc-03-032423.pdf> (accessed on January 9, 2024), pages 198, 199-204.

³⁹ Exhibit A, Decision and Parameters and Guidelines, adopted September 22, 2023, page 18.

of Orange identified offsetting revenue of \$449,920 for fiscal years 2008-2009 through 2010-2011, and 2012-2013 through 2016-2017 (no claims were filed by any local agencies for 2011-2012 or 2017-2018). The County did not disclose the source of revenue, but according to its Program Effectiveness Assessment for 2015-2016, its revenue sources for stormwater (other than General Fund) include: a separate utility billing item, gas tax, and special district funds, such as a sanitation fee, fleet maintenance fund, grants, pollution response cost recovery, and other service fees and fines.⁴⁰ Also, reimbursements from other local agencies under the cost sharing agreement are not the County's proceeds of taxes and may account for the County's claimed offsetting revenue.

Although the City of Lake Forest identified grant funding received in fiscal year 2012-2013 for two percent of its costs,⁴¹ and for fiscal years 2014-2015 and 2015-2016 received grant funding for eight percent of its costs,⁴² it did not file claims for 2012-2013 or 2015-2016, and did not identify any offsetting revenue in its 2014-2015 claim.⁴³

8. Actual costs may be lower if the Controller reduces any reimbursement claim for this program following an audit deeming the claim to be excessive, unreasonable, or not eligible for reimbursement.

Methodology

A. Reimbursement Period Cost Estimate

Activity A. consists of submitting a proposed Cooperative Watershed Program that will fulfill applicable requirements of the selenium TMDL implementation plan within 24 months of adoption of the test claim permit (by May 22, 2011), or one month after approval of the Regional Board selenium TMDLs by OAL (April 19, 2019),⁴⁴ whichever is later. Consistent with the assumptions above, the estimate includes only the three fiscal years 2008-2009 to 2010-2011. The low estimate is costs actually claimed. The high estimate adds two more claimants (Santa Ana and the OCFCD) that are subject to

⁴⁰ Exhibit C (3), County of Orange and Orange County Flood Control District, Annual Progress Report, Program Effectiveness Assessment, November 15, 2016, Section C-2.0, page C-2-7.

⁴¹ Exhibit C (1), Claimant's Comments on the Draft Proposed Decision, filed November 4, 2022, <https://csm.ca.gov/matters/09-TC-03/doc85.pdf> (accessed on January 9, 2024), page 221.

⁴² Exhibit C (1), Claimants' Comments on the Draft Proposed Decision, filed November 4, 2022, <https://csm.ca.gov/matters/09-TC-03/doc85.pdf> (accessed on January 9, 2024), pages 225, 229. See also Exhibit C (2), Commission on State Mandates, Test Claim Decision on *California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030, Sections IX, X, XI, XII, XIII, and XVIII, Adopted May 22, 2009*, 09-TC-03, adopted March 24, 2023, <https://csm.ca.gov/decisions/09-tc-03-032423.pdf> (accessed on January 9, 2024), pages 199-204.

⁴³ Exhibit C (6), Spreadsheet of Claims Data.

⁴⁴ The OAL approval date of April 19, 2019 is in the history of California Code of Regulations, title 23, section 3979.11.

the selenium TMDL. Activity A. claims are calculated by using the average costs claimed multiplied by the two eligible claimants that have not yet filed claims.

Activity A. actual costs claimed [\$513,282] / the number of filers [9] = average Activity A. cost per filer [\$57,031]

Average Activity A. cost per filer [\$57,031] x number of non-filers [2] = total estimated non-filer Activity A. costs [\$114,062]

Activity A. actual costs claimed [\$513,282] + estimated non-filer Activity A. costs that could be claimed in late claims [\$114,062] = Total potential Activity A. costs [\$627,344]

Activity B., consists of developing a “constituent-specific source control plan” for copper, lead, and zinc, including a monitoring program, to ensure compliance” with WLAs for dry and wet weather runoff, which were derived from the 2007 San Gabriel River Metals TMDL jointly developed by the Los Angeles Water Board and U.S. EPA. Consistent with the assumptions described above, the high estimate assumes that, in addition to the local agencies that already claimed reimbursement for Activity B., the seven permittees subject to the TMDL and that participated in the workgroup to develop the plan, but did not already claim (Brea, Cypress, La Habra, La Palma, Los Alamitos, Placentia, and Seal Beach), will claim reimbursement. This is calculated by using the average costs claimed multiplied by the seven eligible claimants who have not yet filed claims. Then add the actual claims to the average claim times the seven claimants who did not file claims. The low estimate is for only costs claimed. The high estimate assumes all claimants who participated in the workgroup will file a claim for this activity.

Activity B. actual costs claimed [\$72,578] / the number of filers [12] = average cost per filer [\$6,048]

Average Activity B. cost per filer [\$6,048] x number of non-filers [7] = total estimated non-filer Activity B. costs [\$42,336]

Activity B. actual costs claimed [\$72,578] + estimated non-filer costs that could be claimed in late claims [\$42,336] = Total potential Activity B. costs [\$114,914]

Costs for Activity C.1. consist of the one-time activity to complete a public awareness survey to determine the effectiveness of the current public and business education strategy by July 1, 2012, and to include the findings of the survey and any proposed changes to the current program in the annual report for 2011-2012. This is calculated by using the average costs claimed multiplied by the 15 eligible claimants who have not yet filed claims. Then add the actual claims to the average claim times the 15 claimants who did not file claims. The low estimate is for only costs claimed. The high estimate assumes all eligible claimants will file a claim for Activity C.1.

Activity C.1. actual costs claimed [\$110,310] / the number of filers [13] = average Activity C.1. cost per filer [\$8,485]

Average Activity C.1. cost per filer [\$8,485] x number of non-filers [15] = total estimated non-filer Activity C.1. costs [\$127,275]

Activity C.1. actual costs claimed [\$110,310] + estimated non-filer Activity C.1. costs that could be claimed in late claims [\$127,275] = Total potential Activity C.1. costs [\$237,585]

Activity C.2. consists of administering individual or regional workshops for each of the specified sectors (manufacturing facilities; mobile service industry; commercial,

distribution, and retail sales industry; residential/commercial landscape construction and service industry; residential and commercial construction industry; and residential and community activities) by July 1, 2010, and annually thereafter. Activity C.2. is calculated by using the average costs claimed multiplied by the number of eligible claimants who have not yet filed claims. Then add the actual claims to the average claim times the number of claimants who did not file claims. The low estimate is for only costs claimed. The high estimate assumes all eligible claimants will file a claim for this activity.

Activity C.2. actual costs claimed [\$177,238] / the number of filers [13] = average Activity C.2. cost per filer [\$13,634]

Average Activity C.2. cost per filer [\$13,634] x number of non-filers [15] = total estimated non-filer Activity C.2. costs [\$204,510]

Activity C.2. actual costs claimed [\$177,238] + estimated non-filer Activity C.2. costs that could be claimed in late claims [\$204,510] = Total potential Activity C.2. costs [\$381,748]

Activity C.3. consists of the principal permittee, in collaboration with the co-permittees, developing and implementing a mechanism for public participation in the updating and implementation of DAMPs, WQMP guidance, and Fact Sheets for various activities. The public shall be informed of the availability of these documents through public notices in local newspapers, county or city websites, local libraries, city halls, or courthouses. Activity C.3. is calculated by using the average costs claimed multiplied by the number of eligible claimants who have not yet filed claims. Then add the actual claims to the average claim times the number of claimants who did not file claims. The low estimate is for only costs claimed. The high estimate assumes all eligible claimants will file a claim for this activity.

Activity C.3. actual costs claimed [\$623] / the number of filers [12] = average Activity C.3. cost per filer [\$52]

Average Activity C.3. cost per filer [\$52] x number of non-filers [16] = total estimated non-filer Activity C.3. costs [\$832]

Activity C.3. actual costs claimed [\$623] + estimated non-filer Activity C.3. costs that could be claimed in late claims [\$832] = Total potential Activity C.3. costs [\$1,455]

Activity D. consists of, within 18 months of permit adoption (by November 22, 2010), developing a pilot program to control pollutant discharges from common interest areas and areas managed by homeowner associations or management companies. This is calculated by using the average costs claimed multiplied by the number of eligible claimants who have not yet filed claims. Then add the actual claims to the average claim times the number of claimants who did not file claims. The low estimate is for only costs claimed. The high estimate assumes all eligible claimants will file a claim for this activity.

Activity D. actual costs claimed [\$17,256] / the number of filers [9] = average Activity D. cost per filer [\$1,917]

Average Activity D. cost per filer [\$1,917] x number of non-filers [19] = total estimated non-filer Activity D. costs [\$36,423]

Activity D. actual costs claimed [\$17,256] + estimated non-filer Activity D. costs that could be claimed in late claims [\$36,423] = Total potential Activity D. costs [\$53,679]

Indirect Costs: The low end of the range for indirect costs is those indirect costs actually claimed. The high end, in addition to indirect costs actually claimed, assumes that all eligible claimants who have not yet filed claims will file claims for indirect costs at the same average rate actually claimed, which is calculated by dividing indirect costs claimed by direct costs claimed equals the average indirect cost rate (as a percentage). Then multiply the average indirect cost rate by the estimated direct costs.

Indirect Costs Actually Claimed [\$17,739] / Direct Costs Actually Claimed [\$909,026] = Average Indirect Cost Rate [2%].

Indirect Cost Rate [2%] x Estimated Direct Costs (sum of all estimated activity costs for the initial claim period) [\$1,430,036] = High End of the Estimated Indirect Costs [\$28,601].

Offsetting Revenues: The low end of the range for offsetting revenues is the total amount of offsetting revenues actually claimed. The high end assumes that all eligible claimants will file claims, with offsetting revenues reported by all eligible claimants at the same average rate, and is calculated by dividing the offsetting revenue identified by the actual direct and indirect costs to get the offsetting revenue as a percentage of total costs claimed. Multiply the rate by the estimated direct and indirect costs not claimed. Then add the estimated offsetting revenue for non-filing claimants to the offsetting revenue actually claimed.

Actual Offsetting Revenues [\$449,920] / Actual Direct and Indirect Costs [\$909,026] = Offsetting Rate (offsetting revenues as a percentage of total costs claimed) [49%].

Estimated Non-filer Direct and Indirect Costs [\$567,080] x Offsetting Rate [49%] = Non-filer Offsetting Revenues [\$277,869].

Actual Offsetting Revenues [\$449,920] + Non-filer Offsetting Revenues [\$277,869] = High End of Estimated Offsetting Revenues [\$727,789]

Late Filing Penalties: The low end is \$0 because none of the initial claims compiled by the Controller were assessed a late filing penalty. The high end assumes that all non-filers will file claims for the initial period of reimbursement, which will be subject to a late filing penalty, which is calculated by adding non-filer direct and indirect costs and subtracting offsets to get net costs. Then multiply the net costs by a ten percent late filing penalty to calculate the estimated non-filer late filing penalties, which are added to the actual late filing penalties (as reported) to estimate the high late filing penalties.

Estimated Non-filer Direct and Indirect Costs [\$531,923] – Estimated Non-filer Offsets [\$260,642] = Estimated Non-filer Net Costs [\$271,281].

Estimated Non-filer Net Costs [\$271,281] x (10% late filing penalty) = Estimated Non-filer Late Filing Penalties [\$27,128].

Actual Late Filing Penalties [\$0] + Estimated Non-filer Late Filing Penalties [\$27,128] = High End of Estimated Late Filing Penalties [\$27,128].

Draft Proposed Statewide Cost Estimate

On June 17, 2024, Commission staff issued the Draft Proposed Statewide Cost Estimate.⁴⁵ No comments were filed on the Draft Proposed Statewide Cost Estimate.

Conclusion

On July 26, 2024, the Commission adopted this Statewide Cost Estimate of \$459,106 to \$690,409 for the Initial Claim Period that began on June 1, 2009, and ended on December 31, 2017.

B. *California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016, Sections D.2., G.1.d., G.3.-5., K.3.c.1.-4., and Attachment E., Section II.E.2.-5., 11-TC-03*

Adopted: November 22, 2024

STATEWIDE COST ESTIMATE

\$238,301 - \$334,104
Initial Claim Period⁴⁶

(November 10, 2010 to December 31, 2017)

*California Regional Water Quality Control Board, San Diego Region,
Order No. R9-2010-0016, Sections D.2., G.1.d., G.3.-5.,
K.3.c.1.-4., and Attachment E., Section II.E.2.-5.*

11-TC-03

The Commission on State Mandates (Commission) adopted this Statewide Cost Estimate on consent by a vote of 5-0 during a regularly scheduled hearing on November 22, 2024 as follows:

Member	Vote
Lee Adams, County Supervisor	Yes
Shannon Clark, Representative of the Director of the Governor's Office of Land Use and Climate Innovation	Yes
Deborah Gallegos, Representative of the State Controller	Yes
Karen Greene Ross, Public Member	Yes
Renee Nash, School District Board Member	Absent
William Pahland, Representative of the State Treasurer, Vice Chairperson	Yes
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	Absent

⁴⁵ Exhibit B, Draft Proposed Statewide Cost Estimate, issued June 17, 2024.

⁴⁶ The entire reimbursement period is within the initial claim period because the Commission found the mandate is not reimbursable beginning January 1, 2018 since the claimants have fee authority, sufficient as a matter of law, to pay for the reimbursable activities pursuant to Government Code section 17556(d).

STAFF ANALYSIS

Summary of the Mandate, Eligible Claimants, and Period of Reimbursement

This Statewide Cost Estimate addresses state-mandated activities arising from National Pollutant Discharge Elimination System (NPDES) Order No. R9-2010-0016, adopted by the San Diego Regional Water Quality Control Board on November 10, 2010.

The Commission adopted the Test Claim Decision on September 22, 2023, partially approving reimbursement for permittees that incur increased costs to perform the reimbursable activities under the mandate, and adopted the Decision and Parameters and Guidelines on January 26, 2024. The eligible claimants are County of Riverside (County) and the cities of Murrieta, Temecula, and Wildomar.⁴⁷ The other copermitttee, Riverside County Flood Control and Water Conservation District (District) was found to be ineligible to claim costs.⁴⁸

The initial reimbursement period, which includes the entire reimbursement period, is November 10, 2010, through December 31, 2017 (eight months of fiscal year 2010-2011 through first half of fiscal year 2017-2018).⁴⁹ Eligible claimants were required to file initial claims with the State Controller's Office (Controller) by August 27, 2024. Late initial reimbursement claims may be filed until August 27, 2025, but will incur a 10 percent late filing penalty of the total amount of the initial claim without limitation.⁵⁰

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

A. SALs – Development and Submittal of Wet Weather MS4 Discharge Monitoring Program

1. Collaborate with all permittees to develop a year-round, watershed based, wet weather MS4 discharge monitoring program to sample a representative percentage of the major outfalls, as defined in 40 CFR 122.26(b)(5) and (b)(6) and Attachment E. of the test claim permit, within each hydrologic subarea. (Order No. R9-2010-0016, Section D.2.)
2. The principal copermitttee shall submit to the Regional Board for review and approval, a detailed draft of the wet weather MS4 discharge monitoring program to be implemented. (Order No. R9-2010-0016, Section D.2., which incorporates by reference Attachment E., Section II.B.3.)

B. Watershed Workplan

1. The watershed BMP implementation strategy shall include a map of any implemented and proposed BMPs. (Order No. R9-2010-0016, Section G.1.d.)

⁴⁷ Exhibit B, Decision and Parameters and Guidelines, adopted January 26, 2024, page 11.

⁴⁸ Exhibit A, Test Claim Decision, adopted September 22, 2023.

⁴⁹ Exhibit B, Decision and Parameters and Guidelines, adopted January 26, 2024, page 13.

⁵⁰ Government Code section 17561(d)(3).

2. The copermitees shall pursue efforts to obtain any interagency agreements, or other coordination efforts, with non-copermittee owners of the MS4 (such as Caltrans, Native American tribes, and school districts) to control the contribution of pollutants from one portion of the shared MS4 to another portion of the shared MS4. (Order No. R9-2010-0016, Section G.3.)
3. The watershed workplan must include the identification of the persons or entities anticipated to be involved during the development and implementation of the Watershed Workplan. (Order No. R9-2010-0016, Section G.4.)
4. The annual watershed review meetings shall be open to the public and adequately noticed. (Order No. R9-2010-0016, Section G.5.)
5. Each permittee shall review and modify jurisdictional programs and JRMP annual reports, as necessary, so they are consistent with the updated watershed workplan. (Order No. R9-2010-0016, Section G.5.)

C. Annual JRMP Report

1. Include in the annual fiscal analysis a narrative description of circumstances resulting in a 25 percent or greater annual change for any budget line items. (Order No. R9-2010-0016, Section K.3.c.1.)
2. Provide in the annual report an updated timeframe for attainment of a desired outcome level in the annual report when an assessment indicates that the desired outcome level has not been achieved at the end of the projected timeframe, but the review of the existing activities and BMPs are adequate, or that the projected timeframe should be extended. (Order No. R9-2010-0016, Section K.3.c.2.)
3. *Except for reporting on the claimants' own municipal projects (which is not eligible for reimbursement),* provide the following information in the Checklist pursuant to Section K.3.c.3.:
 - a. Construction:
 - 1) Number of Active Sites
 - 2) Number of Inactive Sites
 - 3) Number of Sites Inspected
 - 4) Number of Violations
 - b. New Development:
 - 1) Number of Development Plan Reviews
 - 2) Number of Projects Exempted from Interim/Final Hydromodification Requirements
 - c. Post Construction Development:
 - 1) Number of Priority Development Projects
 - 2) Number of SUSMP Required Post-Construction BMP Inspections
 - 3) Number of SUSMP Required Post-Construction BMP Violations
 - 4) Number of SUSMP Required Post-Construction BMP Enforcement Actions Taken

- d. Illicit Discharges and Connections:
 - 1) Number of IC/ID Eliminations
 - 2) Number of IC/ID Violations
 - e. MS4 Maintenance:
 - 1) Total Miles of MS4 Inspected
 - f. Municipal/Commercial/Industrial:
 - 1) Number of Facilities
 - 2) Number of Violations (Order No. R9-2010-0016, Section K.3.c.3., Attachment D.)
4. *Except for reporting on the claimants' own municipal projects (which is not eligible for reimbursement), report the following information contained in Table 5 pursuant to Section K.3.c.4.:*
- a. New Development:
 - 1) All revisions to the SSMP, including where applicable: (b) updated procedures for identifying pollutants of concern for each priority development project; (c) updated treatment BMP ranking matrix; (d) updated site design and treatment control BMP design standards. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. New Development 2.)
 - 2) Brief description of BMPs required at approved priority development projects. Verification that site design, source control, and treatment BMPs were required on all applicable priority development projects. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. New Development 3.)
 - 3) Name and location of all priority development projects that were granted a waiver from implementing LID BMPs pursuant to Section F.1.d.4. during the reporting period. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. New Development 4.)
 - 4) Updated watershed-based BMP maintenance tracking database of approved treatment control BMPs and treatment control BMP maintenance within its jurisdiction, including updates to the list of high-priority priority development projects; and verification that the requirements of this Order were met during the reporting period. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. New Development 5.)
 - 5) Name and brief description of all approved priority development projects required to implement hydrologic control measures in compliance with Section F.1.h. including a brief description of the management measures planned to protect downstream beneficial uses and prevent adverse physical changes to downstream stream channels. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. New Development 6.)
 - b. Construction:
 - 1) A description of planned ordinance updates within the next annual reporting period, if applicable. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Construction 1.)

- 2) A description of any changes to procedures used for identifying priorities for inspecting sites and enforcing control measures that consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Construction 2.)
 - 3) Any changes to the designated minimum and enhanced BMPs. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Construction 3.)
 - 4) Include the following information in the summary of the inspection program: (a) date of inspections conducted at each facility; (b) date of enforcement actions by facility; (c) brief description of the effectiveness of each high-level enforcement action at construction sites. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Construction 4.)
 - 5) Supporting files must include a record of inspection dates, the results of each inspection, photographs (if any), and a summary of any enforcement actions taken. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Construction 4.)
- c. Municipal (*other than a claimant's own development*):
- 1) Updated source inventory. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 1.)
 - 2) All changes to the designated municipal BMPs. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 2.)
 - 3) Descriptions of any changes to procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 3.)
 - 4) Summary and assessment of BMP retrofits implemented at flood control structures, including: (a) List of projects retrofitted; (b) List and description of structures evaluated for retrofitting; (c) List of structures still needing to be evaluated and the schedule for evaluation. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 4.)
 - 5) Include in the summary of the MS4 and MS4 facilities operations and maintenance activities, the (a) Number and types of facilities maintained. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 5.a.)
 - 6) Include (a) types of facilities and (b) summary of the inspection findings in the summary of the municipal structural treatment control operations and maintenance activities. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 5.)
 - 7) Include a list of facilities planned for bi-annual inspections and the justification in the summary of the MS4 and MS4 facilities operations and maintenance activities. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 6.c.)
 - 8) Include in the summary of the municipal areas/programs inspection activities: (a) date of inspections conducted at each facility; (b) The BMP violations identified during the inspection by facility; (c) date of

enforcement actions by facility. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 7.a.-c.)

- 9) Description of activities implemented to address sewage infiltration into the MS4. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 8.)
 - 10) Description of BMPs and their implementation for unpaved roads construction and maintenance. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Municipal 9.)
- d. Commercial/Industrial:
- 1) Updated inventory of commercial/industrial sources of discharges. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Commercial/Industrial 1.)
 - 2) Include the following information in the summary of the inspection program: (a) date of inspections conducted at each facility or mobile business; (b) The BMP violations identified during the inspection by facility; (c) date of enforcement actions by facility or mobile business; (d) brief description of the effectiveness each high-level enforcement actions at commercial/industrial sites including the follow-up activities for each facility. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Commercial/Industrial 2.)
 - 3) All changes to designated minimum and enhanced BMPs. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Commercial/Industrial 3.)
- e. Residential:
- 1) All updated minimum BMPs required for residential areas and activities. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Residential 1.)
 - 2) Description of efforts to manage runoff and storm water pollution in common interest areas and mobile home parks. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Residential 3.)
- f. Retrofitting Existing Development:
- 1) Updated inventory and prioritization of existing development identified as candidates for retrofitting. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Retrofitting Existing Development 1.)
 - 2) Description of efforts to retrofit existing developments during the reporting year. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Retrofitting Existing Development 2.)
 - 3) Description of efforts taken to encourage private landowners to retrofit existing development. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Retrofitting Existing Development 3.)
 - 4) A list of all retrofit projects that have been implemented, including site location, a description of the retrofit project, pollutants expected to be treated, and the tributary acreage of runoff that will be treated. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Retrofitting Existing Development 4.)

- 5) Any proposed retrofit or regional mitigation projects and time lines for future implementation. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Retrofitting Existing Development 5.)

g. Workplans:

- 1) Updated workplans including priorities, strategy, implementation schedule, and effectiveness evaluation. (Order No. R9-2010-0016, Section K.3.c.4., Table 5. Workplans)

D. Special Studies

1. Sediment Toxicity Study

- a. Develop and submit to the Regional Board by April 1, 2012, a workplan to investigate the toxicity of sediment in streams and its potential impact on benthic macroinvertebrate IBI scores. The study must be implemented in conjunction with the stream assessment monitoring in Attachment E. The study must include the following elements:

- 1) At least four stream assessment locations must be sampled, including one reference site and one mass loading site. The selection of sites must be done with consideration of subjectivity of receiving waters to discharges from residential and agricultural land uses.
- 2) At a minimum, sampling must occur once per year at each site for at least two years.
- 3) At a minimum, sediment toxicity analysis must include the measurement of metals, pyrethroids, and organochlorine pesticides. The analysis must include estimates of bioavailability based upon sediment grain size, organic carbon, and receiving water temperature at the sampling site. Acute and chronic toxicity testing must be done using *Hyalella azteca*.

- b. Include the results and a discussion in the monitoring annual report including an assessment of the relationship between observed IBI scores and all variables measured. (Order No. R9-2010-0016, Attachment E, Section II.E.2.)

2. Trash and Litter Investigation

- a. Develop and submit to the Regional Board by September 1, 2012, a workplan to assess trash (including litter) as a pollutant within receiving waters on a watershed based scale. The copermittes must select a lead copermittie. The study must include the following elements:

- 1) The lead copermittie must identify suitable sampling locations within the Santa Margarita HU.
- 2) Trash at each location must be monitored a minimum of twice during the wet season following a qualified monitoring storm event⁵¹ and twice during the dry season.
- 3) The lead copermittie must use the "Final Monitoring Workplan for the Assessment of Trash in San Diego County Watersheds" and "A Rapid

⁵¹ A qualified monitoring storm event is defined as a minimum of 0.1 inches of precipitation preceded by 72 hours of dry weather.

Trash Assessment Method Applied to Waters of the San Francisco Bay Region” to develop a monitoring protocol.

- b. Include the results and a discussion in the monitoring annual report and must, at a minimum, include source identification, an evaluation of BMPs for trash reduction and prevention, and a description of any BMPs implemented in response to study results. (Order No. R9-2010-0016, Attachment E, Section II.E.3.)
3. Agricultural, Federal and Tribal Input Study
 - a. Develop and submit to the Regional Board by September 1, 2012, a workplan to investigate the water quality of agricultural, federal, and tribal runoff that is discharged into their MS4. The study must include the following elements:
 - 1) The copermitees must identify a representative number of sampling stations within their MS4 that receive discharges of agricultural, federal, and tribal runoff that has not co-mingled with any other source. At least one station from each category must be identified.
 - 2) One storm event must be monitored at each sampling location each year for at least two years.
 - 3) At a minimum, analysis must include those constituents listed in Table 1 of the MRP. Grab samples may be utilized, though composite samples are preferred. The copermitees must also measure or estimate flow rates and volumes of discharges into the MS4.
 - b. Include the results and a discussion from the study in the monitoring annual report. (Order No. R9-2010-0016, Attachment E, Section II.E.4.)
 4. MS4 and Receiving Water Maintenance Study
 - a. Develop and submit to the Regional Board by April 1, 2012, a workplan to investigate receiving waters that are considered part of the MS4 and that are subject to continual vegetative clearance activities, for example, mowing. The copermitees must assess the effects of the vegetation removal activities and water quality, including, but not limited to, modification of biogeochemical functions, in-stream temperatures, receiving water bed and bank erosion potential, and sediment transport. The study must include the following elements:
 - 1) The copermitees must identify suitable sampling locations, including at least one reference that is not subject to maintenance activities.
 - 2) At a minimum, the copermitees must monitor pre- and post-maintenance activities for indicator bacteria, turbidity, temperature, dissolved oxygen and nutrients (nitrite, nitrate, total Kjeldahl nitrogen, ammonia and total phosphorous). The copermitees must also measure or estimate flow rates and volumes.
 - b. Include the results and a discussion from the study in the annual monitoring report including the relevance of findings to CWA section 303(d) listed impaired waters. (Order No. R9-2010-0016, Attachment E, Section II.E.5.)

Offsetting Revenues and Reimbursements

The Parameters and Guidelines specify any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any funds other than the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.⁵²

Offsetting revenues identified in the reimbursement claims totaled \$22,294 for fiscal years 2011-2012 through the first half of 2017-2018, which were identified by Murrietta and which represent 50 percent of the city's claimed costs per fiscal year. The source of the offsetting revenue was not identified in the claims.

Statewide Cost Estimate

All activities except for Activities B.2., B.4., and C., are one-time activities or are short-term special studies that end within the first few years of the program. Therefore, all costs for Activities A.1., A.2., B.1., B.3., B.5., and D.1.-4. are expected to be claimed for the first few years of the reimbursement period only. Costs for Activities B.2., B.4., and C., however, are expected to be claimed for the entire reimbursement period ending December 31, 2017.

Moreover, Activity A.2. is performed only by the principal copermittee, the District, which is not an eligible claimant. Therefore, no claimant can claim costs for A.2.

Staff reviewed 19 unaudited reimbursement claims as compiled by the Controller. Although claims were submitted by all four eligible claimants, no claimant filed for all fiscal years. Murrietta filed claims covering 2011-2012 through the first half of 2017-2018, the County filed claims from 2010-2011 through 2015-2016, Temecula filed claims from 2011-2012 through 2015-2016 and, Wildomar only filed for 2014-2015. Staff developed the Statewide Cost Estimate based on the assumptions and methodology discussed herein. Table 1 below summarizes the cost estimates for all fiscal years, eight months of 2010-2011 through first half of 2017-2018.

Table 1. Reimbursement Period Cost Estimate

A. Storm Water Action Levels (SALs)	
Activity A.1. Collaborate with all permittees to develop a year-round, watershed based, wet weather MS4 discharge monitoring program to sample a representative percentage of the major outfalls, as defined in 40 CFR 122.26(b)(5) and (b)(6) and Attachment E. of the test claim permit, within each hydrologic subarea. (Order No. R9-2010-0016, Section D.2.)	\$20,709 - \$30,221
Activity A.2. The principal copermittee shall submit to the Regional Board for review and approval, a detailed draft of the wet weather MS4 discharge monitoring program to be implemented. (Order No. R9-2010-0016, Section D.2.,	\$0 - \$0

⁵² Exhibit B, Decision and Parameters and Guidelines, adopted January 26, 2024, page 32.

which incorporates by reference Attachment E., Section II.B.3.)	
B. Watershed Workplan	
Activity B.1. The watershed Best Management Practice (BMP) implementation strategy shall include a map of any implemented and proposed BMPs. (Order No. R9-2010-0016, Section G.1.d.)	\$13,135 - \$19,170
Activity B.2. The copermittees shall pursue efforts to obtain any interagency agreements, or other coordination efforts, with non-copermittee owners of the MS4 (such as Caltrans, Native American tribes, and school districts) to control the contribution of pollutants from one portion of the shared MS4 to another portion of the shared MS4. (Order No. R9-2010-0016, Section G.3.)	\$2,822 - \$4,123
Activity B.3. The watershed workplan must include the identification of the persons or entities anticipated to be involved during the development and implementation of the Watershed Workplan. (Order No. R9-2010-0016, Section G.4.)	\$0 - \$0
Activity B.4. The annual watershed review meetings shall be open to the public and adequately noticed. (Order No. R9-2010-0016, Section G.5.)	\$21,370 - \$31,188
Activity B.5. Each permittee shall review and modify jurisdictional programs and jurisdictional runoff management program (JRMP) annual reports, as necessary, so they are consistent with the updated watershed workplan. (Order No. R9-2010-0016, Section G.5.)	\$0 - \$0
C. Annual JRMP Report	
Activity C. The JRMP report must comply with the requirements of the Parameters and Guidelines (Ps and Gs) Section IV. Reimbursable Activities, Section C. Annual JRMP Report. ⁵³	\$30,007 - \$43,794
D. Special Studies	
D.1. Sediment Toxicity Study	
Activity D.1.a. Develop and submit to the Regional Board by April 1, 2012, a workplan to investigate the toxicity of sediment in streams and its potential impact on benthic macroinvertebrate Index of Biotic Integrity (IBI) scores.	\$51,679 - \$75,420
Activity D.1.b. Include the results and a discussion in the monitoring annual report including an assessment of the relationship between observed IBI scores and all	\$10,657 - \$15,553

⁵³ See Exhibit B, Decision and Parameters and Guidelines, adopted January 26, 2024, pages 24-28.

variables measured. (Order No. R9-2010-0016, Attachment E, Section II.E.2.)	
D.2. Trash and Litter Investigation	
Activity D.2.a. Develop and submit to the Regional Board by September 1, 2012, a workplan to assess trash (including litter) as a pollutant within receiving waters on a watershed based scale. The copermitees must select a lead copermitee.	\$39,268 - \$57,314
Activity D.2.b. Include the results and a discussion in the monitoring annual report and must, at a minimum, include source identification, an evaluation of BMPs for trash reduction and prevention, and a description of any BMPs implemented in response to study results. (Order No. R9-2010-0016, Attachment E, Section II.E.3.)	\$6,049 - \$8,829
D.3. Agricultural, Federal, and Tribal Input Study	
Activity D.3.a. Develop and submit to the Regional Board by September 1, 2012, a workplan to investigate the water quality of agricultural, federal, and tribal runoff that is discharged into their MS4.	\$45,562 - \$66,498
Activity D.3.b. Include the results and a discussion from the study in the monitoring annual report. (Order No. R9-2010-0016, Attachment E, Section II.E.4.)	\$11,351 - \$16,570
D.4. MS4 and Receiving Water Maintenance Study	
Activity D.4.a. Develop and submit to the Regional Board by April 1, 2012, a workplan to investigate receiving waters that are considered part of the MS4 and that are subject to continual vegetative clearance activities, for example, mowing.	\$7,072 - \$7,072
Activity D.4.b. Include the results and a discussion from the study in the annual monitoring report including the relevance of findings to Clean Water Act (CWA) section 303(d) listed impaired waters. (Order No. R9-2010-0016, Attachment E, Section II.E.5.)	\$0 - \$0
Indirect Costs	\$914 - \$1,503
Offsetting Revenue	\$22,294 - \$32,405
Late Filing Penalty	\$0 - \$10,746
Total Costs	\$238,301 - \$334,104

Assumptions

1. The amount claimed for the period of reimbursement may be higher if late or amended claims are filed. All four eligible claimants filed claims for the reimbursement period but not all claimants filed for each of the seven and a half fiscal years (from 2010-2011 through first half of 2017-2018).⁵⁴ Murrietta filed seven claims, the County filed six claims, Temecula filed five claims, and

⁵⁴ Exhibit D (1), State Controller's Office, Claims Data, CRWQCB, San Diego Region, Order No. R9-2010-0016, Program 383, 11-TC-03.

Wildomar only filed one claim. This Statewide Cost Estimate is based on the claims filed and the claims which the eligible claimants could have filed but have not.

Only the County filed for the first fiscal year, 2010-2011, and claimed \$4,316, which was primarily composed of costs for the one-time activities. For purposes of this Statewide Cost Estimate, it is presumed that either no reimbursable costs were incurred by the cities during fiscal year 2010-2011, or that costs of less than \$1,000 were incurred, in which case a reimbursement claim cannot be filed.⁵⁵ Thus, the three cities are not likely to file late claims for fiscal year 2010-2011.

The eligible claimants may still file late claims for those years that were skipped and may also file late amended claims.

2. Activity A.2. requires the principal permittee to submit a draft plan to the Regional Board for approval. There are no reimbursable activities for any other claimant. The principal copermittee, the District, is not an eligible claimant. Thus, the costs claimed by the County and Temecula for activity A.2. have not been included in this Statewide Cost Estimate.
3. The approved reporting requirements in Activity C. represent only the higher level of service activities that were mandated by the state when compared to prior law. Federal law and the prior permit previously required an annual report and several activities claimed were denied on this basis.⁵⁶ Therefore, costs to comply with Activity C. will be less than the total cost to prepare and submit the annual report.
4. No costs were filed for activities B.3., B.5., and D.4.b. which address the identification of the persons working on the Watershed Workplan, the review and modification of jurisdictional programs and JRMP annual reports, and reporting on the MS4 and Receiving Waters Maintenance special study, respectively. For purposes of this Statewide Cost Estimate, it is presumed that no costs were incurred for these activities, in which case the eligible claimants will not file amended or late claims on these activities.
5. No costs were filed after fiscal year 2013-2014 for activity D.4.a. which addresses the development and submission of a workplan for the MS4 and Receiving Waters Maintenance special study. For purposes of this Statewide Cost Estimate, it is presumed that all costs for this activity have been claimed and eligible claimants will not file amended or late claims on this activity.
6. Costs may be lower if the Controller audits the claims and determines that other offsetting revenues (i.e., funds that are not the claimant's proceeds of taxes) were used by a claimant to pay for the reimbursement activities.
7. Indirect costs are low because overhead was only claimed at 10 percent by the County and was not claimed by the cities, some of which have contracted with third parties to perform the reimbursable activities.

⁵⁵ Government Code section 17564.

⁵⁶ Exhibit A, Test Claim Decision, adopted September 22, 2023, pages 277-281.

8. Actual costs may be lower if the Controller reduces any reimbursement claim for this program following an audit deeming the claim to be excessive, unreasonable, or not eligible for reimbursement.

Methodology

As explained below, the low-end statewide cost estimate represents the costs actually claimed. The high-end statewide cost estimate represents the costs actually claimed plus the costs that could be claimed in late claims.

Activity A.1. consists of collaborating with all permittees to develop a year-round, watershed based, wet weather MS4 discharge monitoring program as part of the Storm Water Actions Levels (SALs) program.

Activity A.1. actual costs claimed [\$20,709] / the number of fiscal years covered by filed claims [18.5] = average activity A.1. cost per claim [\$1,119]

Average activity A.1. cost per claim [\$1,119] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity A.1. costs [\$9,512]

Activity A.1. actual costs claimed [\$20,709] + estimated non-filed activity A.1. costs that could be claimed in late claims [\$9,512] = Total potential activity A.1. costs [\$30,221]

Activity A.2. consists of only the principal copermitttee submitting to the Regional Board a detailed draft of the wet weather MS4 discharge monitoring program to be implemented as part of the Storm Water Actions Levels (SALs) program. Since the principal copermitttee, the Riverside County Flood Control and Water Conservation District, is not an eligible claimant, no costs may be claimed for this activity.

Activity B.1. consists of including a map of any implemented and proposed Best Management Practices (BMPs) in the watershed BMP implementation strategy as part of the Watershed Workplan.

Activity B.1. actual costs claimed [\$13,135] / the number of fiscal years covered by filed claims [18.5] = average activity B.1. cost per claim [\$710]

Average activity B.1. cost per claim [\$710] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity B.1. costs [\$6,035]

Activity B.1. actual costs claimed [\$13,135] + estimated non-filed activity B.1. costs that could be claimed in late claims [\$6,035] = Total potential costs [\$19,170]

Activity B.2. consists of the copermitttees pursuing efforts to obtain any interagency agreements, or other coordination efforts, with non-copermitttee owners of the MS4 to control the contribution of pollutants as part of the Watershed Workplan.

Activity B.2. actual costs claimed [\$2,822] / the number of fiscal years covered by filed claims [18.5] = average activity B.2. cost per claim [\$153]

Average activity B.2. cost per claim [\$153] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity B.2. costs [\$1,301]

Activity B.2. actual costs claimed [\$2,822] + estimated non-filed activity B.2. costs that could be claimed in late claims [\$1,301] = Total potential costs [\$4,123]

Activity B.3. consists of including in the Watershed Workplan the identification of the persons or entities anticipated to be involved during the development and

implementation of the Workplan. No claimant claimed these costs and thus, no projection of future costs claimed is possible.

Activity B.4. consists of opening to the public and adequately noticing the annual watershed review meetings.

Activity B.4. actual costs claimed [\$21,370] / the number of fiscal years covered by filed claims [18.5] = average activity B.4. cost per claim [\$1,155]

Average activity B.4. cost per claim [\$1,155] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity B.4. costs [\$9,818]

Activity B.4. actual costs claimed [\$21,370] + estimated non-filed activity B.4. costs that could be claimed in late claims [\$9,818] = Total potential costs [\$31,188]

Activity B.5. consists of each permittee reviewing and modifying its jurisdictional programs and jurisdictional runoff management program (JRMP) annual reports, as necessary, so they are consistent with the updated watershed workplan. No claimant claimed these costs and thus, no projection of future costs claimed is possible.

Activity C. consists of providing specific information in the annual JRMP report, the Checklist and Table 5.

Activity C. actual costs claimed [\$30,007] / the number of fiscal years covered by filed claims [18.5] = average activity C. cost per claim [\$1,622]

Average activity C. cost per claim [\$1,622] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity C. costs [\$13,787]

Activity C. actual costs claimed [\$30,007] + estimated non-filed activity C. costs that could be claimed in late claims [\$13,787] = Total potential activity C. costs [\$43,794]

Activity D.1.a. consists of developing and submitting to the Regional Board by April 1, 2012, and implementing a workplan to investigate the toxicity of sediment in streams as part of the Sediment Toxicity Study.

Activity D.1.a. actual costs claimed [\$51,679] / the number of fiscal years covered by filed claims [18.5] = average activity D.1.a. cost per claim [\$2,793]

Average activity D.1.a. cost per claim [\$2,793] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity D.1.a. costs [\$23,741]

Activity D.1.a. actual costs claimed [\$51,679] + estimated non-filed activity D.1.a. costs that could be claimed in late claims [\$23,741] = Total potential costs [\$75,420]

Activity D.1.b. consists of including the results of the Sediment Toxicity Study and a discussion in the monitoring annual report.

Activity D.1.b. actual costs claimed [\$10,657] / the number of fiscal years covered by filed claims [18.5] = average activity D.1.b. cost per claim [\$576]

Average activity D.1.b. cost per claim [\$576] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity D.1.b. costs [\$4,896]

Activity D.1.b. actual costs claimed [\$10,657] + estimated non-filed activity D.1.b. costs that could be claimed in late claims [\$4,896] = Total potential costs [\$15,553]

Activity D.2.a. consists of developing and submitting to the Regional Board by September 1, 2012, and implementing a workplan to assess trash as a pollutant within receiving waters as part of the Trash and Litter Investigation special study.

Activity D.2.a. actual costs claimed [\$39,268] / the number of fiscal years covered by filed claims [18.5] = average activity D.2.a. cost per claim [\$2,123]

Average activity D.2.a. cost per claim [\$2,123] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity D.2.a. costs [\$18,046]

Activity D.2.a. actual costs claimed [\$39,268] + estimated non-filed activity D.2.a. costs that could be claimed in late claims [\$18,046] = Total potential costs [\$57,314]

Activity D.2.b. consists of including the results of the Trash and Litter Investigation special study and a discussion in the monitoring annual report.

Activity D.2.b. actual costs claimed [\$6,049] / the number of fiscal years covered by filed claim [18.5] = average activity D.2.b. cost per claim [\$327]

Average activity D.2.b. cost per claim [\$327] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity D.2.b. costs [\$2,780]

Activity D.2.b. actual costs claimed [\$6,049] + estimated non-filed activity D.2.b. costs that could be claimed in late claims [\$2,780] = Total potential costs [\$8,829]

Activity D.3.a. consists of developing and submitting to the Regional Board by September 1, 2012, and implementing a workplan to investigate the water quality of agricultural, federal, and tribal runoff discharged into their MS4 as part of the Agricultural, Federal, and Tribal Input Study.

Activity D.3.a. actual costs claimed [\$45,562] / the number of fiscal years covered by filed claims [18.5] = average activity D.3.a. cost per claim [\$2,463]

Average activity D.3.a. cost per claim [\$2,463] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity D.3.a. costs [\$20,936]

Activity D.3.a. actual costs claimed [\$45,562] + estimated non-filed activity D.3.a. costs that could be claimed in late claims [\$20,936] = Total potential costs [\$66,498]

Activity D.3.b. consists of including the results of the Agricultural, Federal, and Tribal Input Study and a discussion in the monitoring annual report.

Activity D.3.b. actual costs claimed [\$11,351] / the number of fiscal years covered by filed claims [18.5] = average activity D.3.b. cost per claim [\$614]

Average activity D.3.b. cost per claim [\$614] x number of fiscal years covered by non-filed claims [8.5] = total estimated non-filed activity D.3.b. costs [\$5,219]

Activity D.3.b. actual costs claimed [\$11,351] + estimated non-filed activity D.3.b. costs that could be claimed in late claims [\$5,219] = Total potential costs [\$16,570]

Activity D.4.a. consists of developing and submitting to the Regional Board by April 1, 2012, and implementing a workplan to investigate receiving waters subject to continual vegetative clearance activities as part of the MS4 and Receiving Waters Maintenance Study. No costs were claimed after fiscal year 2013-2014. All costs are

presumed to have been claimed and future costs are projected at \$0. Accordingly, the high end remains the same as the low end of the range.

Activity D.4.b. consists of including the results of the MS4 and Receiving Water Maintenance Study and a discussion in the monitoring annual report. No claimant claimed these costs and thus, no projection of future costs claimed is possible.

Indirect Costs: The low end of the range for indirect costs is those indirect costs actually claimed. The high end, in addition to indirect costs actually claimed, assumes all eligible claimants who have not yet filed claims will file claims for indirect costs at the same average rate actually claimed, which is calculated by dividing indirect costs claimed by direct costs claimed equals average indirect cost rate (as a percentage). Then multiply the average indirect rate by the estimated direct costs.

Indirect Costs Actually Claimed [\$914] / Direct Costs Actually Claimed [\$259,681]
= Average Indirect Cost Rate [0.4%].

Indirect Cost Rate [0.4%] x Estimated Direct Costs (sum of all estimated activity costs for the initial claim period) [\$375,752] = High End of the Estimated Indirect Costs [\$1,503].

Offsetting Revenues: The low end of the range is total offsetting revenues actually claimed. The high end assumes all eligible claimants will file claims, with offsetting revenues reported by all eligible claimants at the same average rate, and is calculated by dividing the offsetting revenue identified by the actual direct and indirect costs to get the offsetting revenue as a percentage of total costs claimed. Multiply the rate by the estimated direct and indirect costs not claimed. Then add the estimated offsetting revenue for non-filing claimants to the offsetting revenue actually claimed.

Actual Offsetting Revenues [\$22,294] / Actual Direct and Indirect Costs [\$260,595] = Offsetting Rate (offsetting revenues as a percentage of total costs claimed) [8.6%].

Estimated Non-filed Direct and Indirect Costs [\$117,574] x Offsetting Rate [8.6%]
= Non-filed Offsetting Revenues [\$10,111].

Actual Offsetting Revenues [\$22,294] + Non-filed Offsetting Revenues [\$10,111] = High End of Estimated Offsetting Revenues [\$32,405]

Late Filing Penalties: The low end is \$0 because none of the initial claims compiled by the Controller were assessed a late filing penalty. The high end assumes all eligible claimants will file claims for the initial period of reimbursement, which will be subject to a late filing penalty. The costs for potential late claims are estimated by adding estimated non-filed direct and indirect costs and subtracting offsets to get net costs. Finally, the net costs are multiplied by a ten percent late filing penalty to estimate the high-end late filing penalties.

Estimated Non-filed Direct and Indirect Costs [\$117,574] – Estimated Non-filed Offsets [\$10,111] = Estimated Non-filed Net Costs [\$107,463].

Estimated Non-filed Net Costs [\$107,463] x (10% late filing penalty) = Estimated Non-filed Late Filing Penalties [\$10,746].

Actual Late Filing Penalties [\$0] + Estimated Non-filed Late Filing Penalties [\$10,746] = High End of Estimated Late Filing Penalties [\$10,746].

Draft Proposed Statewide Cost Estimate

On October 15, 2024, Commission staff issued the Draft Proposed Statewide Cost Estimate.⁵⁷ No comments were filed on the Draft Proposed Statewide Cost Estimate.

Conclusion

On November 22, 2024, the Commission adopted this Statewide Cost Estimate of \$238,301 - \$334,104 for the Initial Claim Period from November 10, 2010 through December 31, 2017.

⁵⁷ Exhibit C, Draft Proposed Statewide Cost Estimate, issued October 15, 2024.