



August 25, 2023

Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
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RECEIVED
August 25, 2023
**Commission on
State Mandates**

Re: Finance Comment on Draft Proposed Decision for Test Claim 10-TC-11, California Regional Water Quality Control Board, San Diego Region, Order No. R9-2009-0002

Dear Director Halsey:

The Department of Finance (Finance) has reviewed the draft proposed decision for the above-referenced test claim. Finance concurs with the staff recommendation to deny the test claim in full.

Finance defers to the State Water Resources Control Board and the San Diego Regional Water Quality Control Board on the substance of the permit terms, whether they are new, or whether they exceed federal requirements. With respect to claimants' fee authority, Finance agrees with the draft proposed decision concluding that claimants have authority to charge regulatory fees and property-related fees.¹

Finance also agrees that there is insufficient evidence that claimants were forced to spend their proceeds of taxes within the meaning of Article XIII B, Section 6 of the California Constitution and Government Code Section 17514. Claimants were required under Government Code Section 17553(b) to include evidence in the test claim of increased costs as well as evidence of all local, state, or federal funds and all fee authority that may be used to offset any costs. Claimants were given an additional opportunity to provide this evidence in 2016, yet the record today still contains incomplete and inconsistent evidence that claimants were forced to use their proceeds of taxes. The Commission should therefore conclude that no reimbursement is required.

If you have any questions regarding this letter, please contact Chris Hill, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,

Teresa Calvert

TERESA CALVERT
Program Budget Manager

¹ Finance continues to disagree with the findings regarding *Howard Jarvis Taxpayers Association v. City of Salinas* (2002) 98 Cal.App.4th 1351, and the application of SB 231 in concluding that prior to January 1, 2018, claimants lacked fee authority due to the voter approval requirement of Proposition 218.

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 August 28, 2023, I served the:

- **Current Mailing List dated August 24, 2023**
- **Claimants' Comments on the Draft Proposed Decision filed August 25, 2023**
- **Finance's Comments on the Draft Proposed Decision filed August 25, 2023**
- **Water Boards' Comments on the Draft Proposed Decision filed August 25, 2023**

California Regional Water Quality Control Board, San Diego Region, Order No. R9-2009-0002, Sections B.2.; C.; D.; F.1.d.; F.1.d.7.i.; F.1.f.; F.1.h.; F.3.a.4.c.; F.3.d.; F.4.b.; F.4.d.; F.4.e.; G.6.; I.; J.; K.1.b.4.n.; and, Only as They Relate to the Reporting Checklist, Section K.3.a. and Attachment D,¹ Adopted December 16, 2009, 10-TC-11

Cities of Dana Point, Laguna Hills, Laguna Niguel, Lake Forest, Mission Viejo, San Juan Capistrano, the County of Orange, and the Orange County Flood Control District, Claimants

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 28, 2023 at Sacramento, California.

David Chavez

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¹ Government Code section 17553(b)(1) requires test claims to identify the specific sections of the executive order alleged to contain a mandate and a detailed description of the new activities mandated by the state. Only the sections indicated in this caption, and Section K.3.a. and Attachment D only as they relate to the reporting checklist, have been properly pled.

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/24/23

**Claim
Number:** 10-TC-11

Matter: California Regional Water Quality Control Board, San Diego Region, Order No. R9-2009-0002, Sections B.2.; C.; D.; F.1.d.; F.1.d.7.i.; F.1.f.; F.1.h.; F.3.a.4.c.; F.3.d.; F.4.b.; F.4.d.; F.4.e.; G.6.; I.; J.; K.1.b.4.n.; and, Only as They Relate to the Reporting Checklist, Section K.3.a. and Attachment D, Adopted December 16, 2009

Claimants: City of Dana Point
City of Laguna Hills
City of Laguna Niguel
City of Lake Forest
City of Mission Viejo
City of San Juan Capistrano
County of Orange
Orange County Flood Control District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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