

1. TEST CLAIM TITLE

WATER CONSERVATION ACT OF 2009

2. CLAIMANT INFORMATION

South Feather Water & Power Agency, et al.

Name of Local Agency or School District

Dustin C. Cooper

Claimant Contact

General Counsel

Title

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Street Address

Oroville, CA 95965-1679

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(530) 533-2885

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3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Dustin C. Cooper

Claimant Representative Name

General Counsel

Title

Minasian, Meith, Soares, Sexton & Cooper, LLP

Organization

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Filing Date

RECEIVED

JUN 30 2011

**COMMISSION ON
STATE MANDATES**

Test Claim #: 10-TC-12

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.

Water Conservation Act of 2009, S.B. x7-7, (amend and repeal Section 10631.5 of, to add Part 2.55 [commencing with section 10608] to Division 6 of, and to repeal and add Part 2.8 [commencing with section 10800] of division 6 of the Water Code).

Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:

5. Written Narrative: pages 2 to 14
6. Declarations: pages 15 to 31
7. Documentation: pages 32 to 56

SECTION 5. WRITTEN NARRATIVE

In Support of Joint Test Claims In Re Water Conservation Act of 2009

Claimants:

South Feather Water & Power Agency
Paradise Irrigation District
Richvale Irrigation District
Biggs-West Gridley Water District

Joint Claimants South Feather Water & Power Agency (“South Feather”), Paradise Irrigation District (“Paradise”), Richvale Irrigation District (“Richvale”), and Biggs-West Gridley Water District (“Biggs”) (hereinafter collectively “Claimants”) represent that the actual costs resulting from the mandate to conserve water pursuant to the Water Conservation Act of 2009 (“Act”) exceeds \$1,000. Additionally, Claimants respond to each of the separate inquiries on the Test Claim Form as follows:

(A) A detailed description of the new activities and costs that arise from the mandate.

The Water Conservation Act of 2009 imposes unfunded state mandates to conserve water and achieve water conservation goals on local public agencies that are “urban retail water suppliers” and/or “agricultural water suppliers”. “Urban retail water supplier” means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes.” (Water Code § 10608.12, subd. (p)). South Feather and Paradise are irrigation districts formed and existing under Division 11 of the California Water Code and are “urban retail water suppliers”, as defined.

“Agricultural water supplier” means a water supplier, either publicly or privately owned, providing water to 10,000 or more irrigated acres, excluding recycled water. ‘Agricultural water supplier’ includes a supplier or contractor for water, regardless of the basis of right, that distributes or sells water for ultimate resale to customers. ‘Agricultural water supplier’ does not include the department

[of water resources].” (*Id.* at subd. (a)). Agricultural water suppliers that provide water to less than 25,000 irrigated acres, excluding recycled water, are not required to implement the conservation mandates unless sufficient funding is provided by the State. (Water Code § 10853).

Richvale and Biggs are local public agencies formed and operating under Divisions 11 and 13, respectively, of the Water Code. Richvale and Biggs are “agricultural water suppliers”, as defined, and provide water to 25,000 or more irrigated acres.

(1) New activities and costs mandated on South Feather and Paradise as urban retail water suppliers

The Act mandates urban retail water suppliers to achieve a 20% reduction in urban per capita water use by December 31, 2020. (Water Code §§ 10608, subd. (g), 10608.4, subd. (d), 10608.16, subd. (a), 10608). Urban suppliers are required to make incremental progress towards this goal by reducing per capita water use by at least 10% on or before December 31, 2015. (*Id.* § 10608.24).

South Feather and Paradise are required to establish their urban water use targets, or baselines, by July 1, 2011 by selecting one of four methods to achieve the mandated water conservation. (Water Code § 10608.20, subds. (a), (b)). Urban suppliers are mandated to adopt expanded and more detailed urban water management plans in 2010 that include the baseline daily per capita water use, urban water use target, interim urban water use target, compliance daily per capita water use, along with the bases for determining estimates, including supporting data. (*Id.* subd. (e)). The deadline for the 2010 urban water management plan may be extended until July 1, 2011. (*Id.* subd. (j)). Thereafter, the urban water management plans shall be updated in every year ending in 5 and 0. The 2015 urban water management plan must describe the urban retail water supplier’s progress towards achieving the 20% reduction by 2020. (Water Code § 10608.42).

In complying with Part 2.55 (commencing with § 10608) of the Water Code, South Feather and Paradise are required to conduct at least one public meeting to (1) allow community input regarding the supplier’s implementation Commission on State Mandates
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plan; (2) consider economic impacts of the implementation plan; and (3) adopt a method for determining its baseline from which to measure the 20% reduction. (Water Code § 10608).

Failure to comply with the aforementioned mandates by South Feather and Paradise will result, on and after July 1, 2016, in ineligibility for water grants or loans awarded or administered by the State of California. (Water Code § 10608.56). Further, a failure to meet the 20% target shall be a violation of law on and after January 1, 2021. (*Id.* § 10608.8, subd. (a)(2)).

(2) New activities and costs mandated on Richvale and Biggs as agricultural water suppliers

The Act “Require[s] implementation of specific efficient water management practices for agricultural water suppliers.” (Water Code § 10608, subd. (i)). Richvale and Biggs are required to measure the volume of water delivered to their customers using best professional practices to achieve a minimum level of measurement accuracy at the farm-gate. (*Id.* § 10608.48, subd. (b)(1)). The Department of Water Resources will adopt regulations providing for a range of options to comply with the water measurement requirement. (*Id.* at subd. (i)(1)). Agricultural water suppliers are required to adopt a pricing structure for water customers based on the quantity of water delivered. (*Id.* § 10608.48, subd. (b)(2)). Because Richvale and Biggs are local public agencies, the change in pricing structure would have to be authorized and approved by its customers through the Proposition 218 process.

If “locally cost effective” and technically feasible, agricultural water suppliers are required to implement fourteen additional efficient management practices:

(1) Facilitate alternative land use for lands with exceptionally high water duties or whose irrigation contributes to significant problems, including drainage.

(2) Facilitate use of available recycled water that otherwise would not be used beneficially, meets all health and safety criteria, and does not harm crops or soils.

(3) Facilitate the financing of capital improvements for on-farm irrigation systems.

(4) Implement an incentive pricing structure that promotes one or more of the following goals:

(A) More efficient water use at the farm level.

(B) Conjunctive use of groundwater.

(C) Appropriate increase of groundwater recharge.

(D) Reduction in problem drainage.

(E) Improved management of environmental resources.

(F) Effective management of all water sources throughout the year by adjusting seasonal pricing structures based on current conditions.

(5) Expand line or pipe distribution systems, and construct regulatory reservoirs to increase distribution system flexibility and capacity, decrease maintenance, and reduce seepage.

(6) Increase flexibility in water ordering by, and delivery to, water customers within operational limits.

(7) Construct and operate supplier spill and tailwater recovery systems.

(8) Increase planned conjunctive use of surface water and groundwater within the supplier service area.

(9) Automate canal control structures.

(10) Facilitate or promote customer pump testing and evaluation.

(11) Designate a water conservation coordinator who will develop and implement the water management plan and prepare progress reports.

(12) Provide for the availability of water management services to water users. These services may include, but are not limited to, all of the following:

(A) On-farm irrigation and drainage system evaluations.

(B) Normal year and real-time irrigation scheduling and crop evapotranspiration information.

(C) Surface water, groundwater, and drainage water quantity and quality data.

(D) Agricultural water management educational programs and materials for farmers, staff, and the public.

(13) Evaluate the policies of agencies that provide the supplier with water to identify the potential for institutional changes to allow more flexible water deliveries and storage.

(14) Evaluate and improve the efficiencies of the supplier's pumps.

(Id. at subd. (c)).

On or before December 31, 2012, Richvale and Biggs are required to prepare agricultural water management plans that include (1) a report on which efficient water management practices have been implemented and are planned to be implemented; (2) an estimate of the water use efficiency improvements that have occurred since the last report; and (3) an estimate of the water use efficiency improvements estimated to occur five and 10 years in the future. (Water Code §§ 10608.48 subd. (d), 10820). Other descriptions required to be included in the plan, such as a description of the service area, water rates, water uses, quantity and quality of water resources, etc., are listed in Water Code section 10828. If conservation measures are not “locally cost effective or technically feasible”, then the agricultural water supplier shall submit information documenting that determination. (*Id.* at § 10608.48, subd. (d), § 10825, subd. (b)).

Prior to adopting the water management plan, agricultural water suppliers are required to make the proposed plan available for public inspection and hold at least one public hearing. (Water Code § 10841). Publicly owned agricultural water suppliers are required to publish notice of the time and place of the hearing in a newspaper at least once a week for two successive weeks. (*Ibid.*). After

adoption the plan must be distributed to various entities (*id.* § 10843) and on an internet website (*id.* § 10844).

Failure to comply with the aforementioned mandates by Richvale and Biggs will result, on and after July 1, 2013, in ineligibility for water grants or loans awarded or administered by the State of California. (Water Code § 10608.56, subd. (b)). Further, the Act contains a citizen suit provision permitting actions (1) alleging a failure to adopt a plan to be commenced within 18 months after the time adoption is required and/or (2) alleging that a plan does not comply with the Act within 120 days after plan adoption. (*Id.* § 10850, subds. (a)(1)-(2)). The inquiry shall extend to whether the agricultural water supplier prejudicially abused its discretion by failing to proceed in the manner required by law or if the action is not supported by substantial evidence. (*Id.* at subd. (b)).

(B) A detailed description of existing activities and costs that are modified by the mandate

The California Constitution requires that all water use be reasonable and beneficial. (Cal. Const., Art. 10, § 2; *See Also* Water Code §§ 100, 275, 1050, 1051). At all times Claimants have reasonably applied water towards beneficial uses, such as potable water supply, irrigation, stockwatering, recreation, environmental enhancement and hydroelectric power generation. In addition to applying and using water in a reasonable and beneficial manner, the Act mandates that Claimants adopt and implement water conservation measures. As discussed more fully hereafter, the mandated conservation measures were not required prior to the Act.

(1) Urban retail water suppliers

Prior to the Act, there was no requirement on South Feather and Paradise to achieve a 20% per capita reduction in water use by 2020 or a 10% incremental reduction by December 31, 2015. South Feather and Paradise were required to prepare and adopt urban water management plans prior to the Act (Water Code §§ 10610 et seq.), but that requirement did not include “the baseline per capita water use, urban water use target, interim urban water use target, and compliance daily per capita water use, along with bases for determining those estimates, including Commission on State Mandates

references to supporting data[]” required by the Act to be included in the 2010 urban water management plan and future plans. In other words, the Act has expanded the scope and content of urban water management plans.

Finally, prior to the Act, there was no requirement to conduct at least one public hearing to allow for community input regarding conservation, consider economic impacts of the implementing the 20% reduction, or to adopt a method for determining an urban water use target. (Water Code § 10608.26, subs. (a)(1)-(3)).

(2) Agricultural water suppliers

Prior to the Act, Richvale and Biggs were not required to have a pricing structure based, at least in part, on the quantity of water delivered. For example, an agricultural water supplier could have a fee structure based on acreage, crop duty, or the number of irrigations per growing season. While subdivision (a) of Water Code section 531.10 was a preexisting obligation, subdivision (b) of that same section gave an exception to the farm-gate measurement requirement if the measurement devices were not locally cost effective. The Act requires compliance with subdivision (a) regardless of whether it is locally cost effective.

Prior to the Act, there was no requirement to implement up to 14 additional conservation measures if locally cost effective and technically feasible. (Water Code § 10608.48, subd. (c)).

The Act expands and amplifies the requirement to adopt agricultural water management plans. Formerly, agricultural water suppliers were subject to the plan requirement only if it supplied more than 50,000 acre-feet of water annually for agricultural purposes. (Former Water Code § 10816). The Act expanded the definition of what constitutes an agricultural water supplier to include all entities who serve 10,000 or more irrigated acres. (Water Code § 10608.12, subd. (a)). The Act specifies the contents of the plans, which are more encompassing than plans required under former law. (Water Code § 10825). New plans must be adopted on or before December 31, 2012, and updated on or before December 31, 2015, and on or before December 31 every five years thereafter. Formerly, agricultural suppliers were reimbursed up to \$5,000 and up to \$25,000 for each Commission on State Mandates
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report and plan, respectively. (Former Water Code § 10853). The Act does not give any reimbursement for preparing plans and updating them every 5 years thereafter.

Finally, prior to the Act, there was no requirement to conduct at least one public hearing prior to adopting the plan, make copies of it available for public inspection, or to publish the time and place of the hearing once per week for two successive weeks in a newspaper of general circulation.

(C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.

Paradise's fiscal year runs from July 1 through June 30 each year. Its current fiscal year is known as Fiscal Year 2010/2011 and the immediate preceding fiscal year was known as Fiscal Year 2009/2010. The fiscal years of South Feather, Richvale and Biggs run from January 1 through December 31 each year. Their current fiscal year is known as Fiscal Year 2011 and its immediately preceding fiscal year is known as Fiscal Year 2010.

For Fiscal Year 2009/2010, which ran from July 1, 2009, through June 30, 2010, Paradise incurred approximately \$5,731.61 in direct and indirect costs in complying with the Act. For Fiscal Year 2010, South Feather, Richvale, and Biggs cumulatively incurred approximately \$66,462.87 in direct and indirect costs in complying with the Act.

Claimants' total cost of the complying with the Act is expected to be higher in Fiscal Year 2010/2011 and Fiscal Year 2011, respectively, because Claimants are beginning to prepare water management plans and otherwise implement the mandates required by the Act. It is difficult to specify the cost of complying with the Act in Fiscal Year 2010/2011 and Fiscal Year 2011. Such costs are subject to a number of unknown variables.

For example, for urban retail water suppliers it is unknown: (i) what the final form of target method 4 will be given it is not to be finalized until December 31, 2014, pursuant to Water Code section 10608.20, subdivision (d); (ii) how much time a consultant and/or staff will need to establish baseline by July 1, Commission on State Mandates
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2011; and (iii) what measures will most effectively and economically achieve the interim 10% per capita water use reduction in 2015 and eventual 20% reduction in 2020.

The water sale revenues of South Feather and Paradise will also decrease as a result of the Act and particularly the required 20% reduction in per capita water use, yet it is expected that their fixed costs such as treatment and distribution of the water will remain the same or increase. Because South Feather and Paradise do not expect a corresponding decrease in costs, the Act results in less water sales revenue, which must be offset by tax proceeds or a rate increase approved by their customers through Proposition 218.

For agricultural water suppliers it is unknown: (i) when the Department of Water Resources' regulations specifying a range of options for farm-gate measurement will be finalized pursuant to Water Code section 10608.48, subdivision (i)(1); (ii) whether a new pricing structure based on the quantity of water delivered will be authorized and approved by Richvale's and Biggs' customers through a Proposition 218 process; and (iii) whether the 14 additional conservation measures will be "locally cost effective" under subdivision (c) of Water Code section 10608.48. The Act results in a potential loss of water sales revenue for Richvale and Biggs insofar as their costs of water delivery will remain the same or increase, while the quantity of water sold is expected to decrease after the conservation measures of the Act are imposed.

(D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the immediately following the fiscal year for which the claim was filed.

Paradise's next fiscal year is Fiscal Year 2011/2012 (July 1, 2011, through June 30, 2012). South Feather's, Richvale's and Biggs' next fiscal year is known as Fiscal Year 2012 (January 1, 2012 through December 31, 2012). The costs of complying with the Act's mandates will be subject to the same unknown variables discussed above with respect to the costs of the mandates in Fiscal Year 2010/2011 and Fiscal Year 2011, respectively.

It is expected that Claimants' costs in complying with the Act's mandates in the immediately following fiscal year will be greater than those estimated in the current fiscal year (Fiscal Year 2010/2011 and Fiscal Year 2011, respectively). South Feather estimates that the mandates will likely require a combination of projects such as pipeline replacement, conservation education programs for customers, installation of smart meters, low-flow toilets and low-flow shower heads, hiring a conservation facilitator, water rate increases to encourage conservation and possibly other programs or projects that are currently unknown to comply with the Act. In addition to the approximately \$7,945 spent in 2010 to comply with the Act, South Feather has incurred approximately \$5,000 in direct and indirect costs in complying with the Act thus far in Fiscal Year 2011, and estimates that costs will be cumulatively in excess of approximately \$9,000,000 through 2020.

Paradise estimates that the mandates will likely require a combination of projects, such as pipeline replacement, water education for Kindergarten through 12th grade, water recycling, metering, tiered pricing and other rate increases to encourage conservation, public information programs, hiring a conservation coordinator, and possibly other programs that are currently unknown to comply with the Act. In complying with the Act, Paradise incurred approximately \$5,731.61 in direct and indirect costs for Fiscal Year 2009/2010, approximately \$47,571.46 thus far in Fiscal Year 2010/2011, and believes costs would be cumulatively in excess of \$8,000,000 through 2020.

Richvale and Biggs will comply with the Act's mandates by, for example, implementing farm-gate measurement systems, altering its water pricing structure to charge for water, at least in part, by volume delivered (assuming approval of the rate change by their customers after completing the Proposition 218 process), and implementing other conservation measures if locally cost effective.

Richvale's direct and indirect costs for complying with the Act were approximately \$47,766.10 for Fiscal Year 2010, expects to expend approximately \$328,219.62 in Fiscal Year 2011, and believes costs would be cumulatively in excess of \$3,000,000 through 2020. Biggs' direct and indirect cost for complying

with the Act were approximately \$10,751.77 for Fiscal Year 2010, approximately \$53,853.46 thus far in Fiscal Year 2011, and believes costs would be cumulatively in excess of approximately \$1.7 to \$4 million through 2020.

(E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

There are a number of variables that make accurate estimation of the statewide costs of the mandate difficult. It is unknown, for example, how many “urban retail water suppliers” or “agricultural water suppliers” are subject to the mandates and are local public agencies eligible for reimbursement for the mandates. This uncertainty is compounded by the number of exemptions from the definition of “agricultural water supplier”, such as (i) agricultural water suppliers with less than 25,000 irrigated acres are exempt from the mandates until sufficient funding is provided by the State (Water Code § 10853); (ii) agricultural water suppliers that are required to submit water conservation plans to the United States Bureau of Reclamation pursuant to the Central Valley Project Improvement Act or the Reclamation Reform Act of 1982 are exempt from the requirement to prepare and submit agricultural water management plans (*id.* § 10828); and/or (iii) an agricultural water suppliers are exempt from the requirement to prepare plans by adopting an urban water management plan or by participating in an areawide, regional, watershed, or basinwide water management planning (*id.* § 10829). For urban retail water suppliers, per capita water use is governed to a large extent by water year type and it is unknown what future water year types there will be. In above average or wet water years, per capita water use is typically less. However, in below average or dry periods, per capita water use is typically much greater.

Notwithstanding these variables, it appears likely that the costs of the mandate will exceed \$1,000,000.00 for urban retail water suppliers and \$1,000,000.00 for agricultural water suppliers per year statewide.

(F) Identification of all the following funding sources available for this program:

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(i) Dedicated state funds

Claimants do not receive any dedicated state funds for implementation of the Act or for any other purpose. Claimants are unaware of any dedicated state funds currently available for implementing the Act's mandates.

(ii) Dedicated federal funds

Claimants do not receive any dedicated federal funds for implementation of the Act or for any other purpose. Claimants are unaware of any dedicated federal funds currently available for implementing the Act's mandates.

(iii) Other nonlocal agency funds

Claimants do not receive any other nonlocal agency funds for implementation of the Act or for any other purpose. Claimants are unaware of any other nonlocal agency funds currently available for implementing the Act's mandates.

(iv) The local agency's general purpose funds

Because the cost in complying with the Act's mandates exceeds the amount of dedicated funds Claimants receive for such services, Claimants must use some of their general purpose funds to make up the difference and comply with the mandates.

(v) Fee authority to offset costs

Claimants are unaware of any authority to assess a fee for complying with the Act's mandates to offset the costs of such conservation efforts. Claimants, as local public agencies, are subject to Proposition 218, which divests Claimants of authority to impose assessments or increase service fees without the consent and authorization (which may be withheld despite the Act's mandates) of Claimants' landowners.

(G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.

After a diligent inquiry, Claimants have concluded that no prior test claims have been submitted to the Board of Control and/or the Commission on State

Mandates on the issue of whether the Act's provisions constitute a reimbursable state mandate.

(H) Identification of a legislatively determined mandate pursuant to Government Code section 17573 that is on the same statute or executive order.

After a diligent inquiry, Claimants have concluded that no prior joint requests have been made to the California Legislature to determine if the Act constitutes a reimbursable state mandate.

Additionally, Claimants note that the Legislative Counsel's Digest does not state whether the Act mandates a new program or higher level of service as required by Government Code section 17575. Nor does the Digest state the basis for any such determination.

SECTION 6
DECLARATIONS

In Support of Joint Test Claims In Re Water Conservation Act of 2009

Claimants:

South Feather Water & Power Agency
Paradise Irrigation District
Richvale Irrigation District
Biggs-West Gridley Water District

Declaration of Michael Glaze on Behalf of
South Feather Water & Power Agency in Support of the Test Claim

I, Michael Glaze, declare as follows:

1. I make this declaration based on my personal knowledge, except for matters set forth herein on information and belief, and as to those matters I believe them to be true, and if called upon to testify, I could and would competently testify to the matters set forth herein under oath.

2. I am employed by South Feather Water & Power Agency (hereinafter "South Feather") as its General Manager.

3. I have held my current position since 1992. My duties include managing the day to day operations of South Feather, including overseeing 6 divisional supervisors and 58 employees. I report to South Feather's Board of Directors, which holds a regular monthly meeting on the 4th Tuesday of each month.

4. I have reviewed the Water Conservation Act of 2009 ("Act") approved by the Governor of the State of California on November 10, 2009, and am familiar with the requirements of the Act as it applies to South Feather. I have reviewed the narrative accompanying the test claim filing and, as to those matters applicable to South Feather, attest to the truth of the statements made therein.

5. Based on my understanding of the requirements of the Act, South Feather is an "urban retail water supplier" and subject to the mandates applicable to urban retail water suppliers. It is my belief that the Act constitutes a new program and/or higher level of service that was not mandated prior to the Act and which are almost exclusively unique on local governmental entities like South Feather. I am informed and believe and on that basis declare that the new programs and/or higher levels of service mandated on South Feather by the Act include:

a. achieving a 20% reduction in urban per capita water use by
December 31, 2020;

b. achieving at least a 10% reduction in urban per capita water use by
December 31, 2015;

c. adopting more detailed and broader in scope urban water management plans first by July 1, 2011, and thereafter in years that end in 5 and 0 that include baseline daily per capita water use, an urban water use target, interim urban water use target, compliance daily per capita water use, along with the bases for determining estimates, including supporting data; and

d. conducting at least one public meeting to allow input regarding the suppliers implementation plan; consider economic impacts of the implementation plan; and adopt a method for determining the baseline from which to measure the 10 and 20% reductions.

6. None of the new programs or higher levels of service described in Paragraph 5, above, were required prior to the Act's enactment.

7. I am informed and believe and on that basis declare that each of the new programs and/or higher levels of service described in Paragraph 5.a. through 5.d. exceed \$1000 to implement.

8. South Feather's Fiscal Year 2010 ran from January 1, 2010, through December 31, 2010. During Fiscal Year 2010, South Feather incurred approximately \$7,945 in direct and indirect costs in beginning to implement the requirements of the Act.

9. South Feather's current Fiscal Year 2011 runs from January 1, 2011, through December 31, 2011. To date, South Feather has incurred approximately \$5,000 in direct and indirect costs in complying with the Act.

10. Estimating the exact cost in Fiscal Year 2011 and future Fiscal Years is difficult given that there are a number of unknown variables. For example, it is unknown:

a. what the final form of target method 4 will be given it will not be finalized until December 31, 2014;

b. how much time a consultant and/or staff will need to establish a baseline by July 1, 2011, and thereafter how much time a consultant and/or staff will need to prepare and further urban water management plans in years ending in 0 and 5;

c. what measures will most effectively and economically achieve the interim 10% per capita water use reduction in 2015 and eventual 20% reduction in 2020; and

d. what future water year types will be (e.g., extreme dry, dry, average, wet, etc.) which plays a significant role in urban per capita water use.

Notwithstanding these unknown variables, I am informed and believe and on that basis declare that the direct and indirect costs of compliance with the Act on South Feather will exceed the \$1000 jurisdictional limit per Fiscal Year and cumulatively through 2020 will exceed approximately \$9,000,000 and could possibly be much more. For example, the Act mandates a 20% per capita reduction in water use, but does not mandate specific measures to achieve the 20% reduction. It is my belief that South Feather can achieve the mandated conservation through a combination of measures such as facility improvements (e.g., pipeline replacement), conservation education programs for customers, installation of smart meters, installation of low-flow toilets, installation of low-flow shower heads, hiring a conservation facilitator, water rate increases to encourage conservation, and possibly other programs or projects that are currently unknown to comply with the Act.

11. The Act does not generally apply to all residents and entities in the State of California. I am informed and believe and on that basis declare that the predominant majority of “urban retail water suppliers” are local governmental agencies, such as South Feather. Accordingly, it is my belief that the Act imposes unique requirements primarily on local agencies.

12. The Act is mandated by the State of California, not as a result of any federal requirement that requires water conservation or related measures.

13. South Feather receives an annual share of property tax revenue. For Fiscal Year 2011 the amount of property tax revenue is expected to be approximately \$500,000. Along with the other demands on these funds, property tax revenue is not sufficient to cover the costs of the Act’s mandates.

14. South Feather does not receive any dedicated state funds for implementation of the Act or for any other purpose; nor am I aware of any dedicated state funds currently available for implementation of the Act. South Feather does not receive any dedicated federal funds for implementation of the Act or for any other purpose; nor am I aware of any dedicated federal funds currently available for implementation of the Act. South Feather does not receive any other nonlocal agency funds for implementation

of the Act or for any other purpose; nor am I aware of any nonlocal agency funds currently available for implementation of the Act. Accordingly, because the anticipated and estimated costs of complying with the Act's mandates exceed the amount of dedicated funds South Feather receives for such services, South Feather must use some of its general purpose property tax funds to make up the shortfall and comply with the Act's mandates.

15. I am unaware of any authority available to South Feather to assess a fee for complying with the Act's mandates. South Feather is subject to Proposition 218, which divests South Feather of authority to impose assessments or increase fees without the consent and authorization of its landowners and/or customers. Given this lack of authority, it is notable that South Feather's customers could reject an assessment or fee increase, yet still be subject to the Act's mandates.

16. I am informed by South Feather's legal counsel, Dustin Cooper, that there are no prior test claims addressing the issue of whether the Act's provisions constitute a reimbursable state mandate. I am also informed by South Feather's legal counsel that there are no previous joint requests made to the California Legislature to determine if the Act constitutes a reimbursable state mandate. However, I am informed and believe that the Legislative Counsel's Digest to the Act fails to state whether it constitutes a new program and/or a higher level of service as required by Government Code section 17575.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this the 28th day of June, 2011, at Oroville, California.



Michael C. Glaze, General Manager
South Feather Water & Power Agency

Declaration of Brad Mattson on Behalf of
Richvale Irrigation District in Support of the Test Claim

I, Brad Mattson, declare as follows:

1. I make this declaration based on my personal knowledge, except for matters set forth herein on information and belief, and as to those matters I believe them to be true, and if called upon to testify, I could and would competently testify to the matters set forth herein under oath.

2. I am employed by Richvale Irrigation District (hereinafter "Richvale") as its General Manager.

3. I have held my current position since January 1, 2005. My duties include managing the day to day operations of Richvale, including overseeing 6 employees. I report to Richvale's Board of Directors, which holds a regular monthly meeting on the 3rd Thursday of each month.

4. I have reviewed the Water Conservation Act of 2009 ("Act") approved by the Governor of the State of California on November 10, 2009, and am familiar with the requirements of the Act as it applies to Richvale. I have reviewed the narrative accompanying the test claim filing and, as to those matters applicable to Richvale, attest to the truth of the statements made therein.

5. Based on my understanding of the requirements of the Act, Richvale is an "agricultural water supplier" and subject to the mandates applicable to agricultural water suppliers. It is my belief that the Act constitutes a new program and/or higher level of service that was not mandated prior to the Act and which are almost exclusively unique on local governmental entities like Richvale. I am informed and believe and on that basis declare that the new programs and/or higher levels of service mandated on Richvale by the Act include:

a. measuring the volume of water delivered to Richvale's customers using best professional practices to achieve a minimum level of measurement accuracy at each farm-gate (i.e., at each customer's point of delivery);

b. adopting a pricing structure for water customers based on the quantity of water delivered;

c. if “locally cost effective” and technically feasible, implementing up to fourteen additional efficient management practices, such as financing capital improvements for on-farm irrigation systems, designating an existing employee or hiring a new employee to be a “water conservation coordinator”; and to expand line or pipe water distribution systems; and

d. prepare, on or before December 31, 2012, an agricultural water management plan, include all the required components of such plan, and publish notifications for and conduct at least one public hearing prior to adoption of the plan.

6. None of the new programs or higher levels of service described in Paragraph 5, above, were required prior to the Act’s enactment.

7. I am informed and believe and on that basis declare that each of the new programs and/or higher levels of service described in Paragraph 5.a. through 5.d. exceed \$1000 to implement.

8. Richvale’s Fiscal Year 2010 ran from January 1, 2010, through December 31, 2010. During Fiscal Year 2010, Richvale incurred approximately \$47,766.10 in direct and indirect costs in beginning to implement the requirements of the Act.

9. Richvale’s current Fiscal Year 2011 runs from January 1, 2011, through December 31, 2011. For Fiscal Year 2011, Richvale estimates it will incur approximately \$328,219.62 in direct and indirect costs in complying with the Act.

10. Estimating the exact cost in Fiscal Year 2011 and future Fiscal Years is difficult given that there are a number of unknown variables. For example, it is unknown:

a. the California Department of Water Resources has not finalized and adopted its regulations specifying a range of options for the accuracy required of each farm-gate measurement device;

b. whether a new volumetric pricing structure will be adopted by Richvale’s landowners pursuant to the Proposition 218 process; and

c. whether the fourteen additional conservation measures will be “locally cost effective” as defined by the Act.

Notwithstanding these unknown variables, I am informed and believe and on that basis declare that the direct and indirect costs of compliance with the Act on Richvale

will exceed the \$1000 jurisdictional limit per Fiscal Year and cumulatively through 2020 will exceed approximately \$3,000,000 and could possibly be much more. Richvale currently does not implement farm-gate measurement and, instead, charges for water on the basis of acreage served. Thus, in order to comply with the Act, Richvale must install measurement devices at each of its approximately 312 farm-gate turnouts at an estimated cost of approximately \$6,870 per turnout (assuming a screw gate type measurement device will be acceptable and adequate). Richvale's labor costs will dramatically increase to maintain and operate the farm-gate measurement devices. Additionally, Richvale will have to comply with Proposition 218 to change its rates to charge, at least in part, on the volume of water delivered to each customer and it is unknown whether Richvale's customers will approve of such a change.

11. The Act does not generally apply to all residents and entities in the State of California. I am informed and believe and on that basis declare that the predominant majority of "agricultural water suppliers" are local governmental agencies, such as Richvale. Accordingly, it is my belief that the Act imposes unique requirements primarily on local agencies.

12. The Act is mandated by the State of California, not as a result of any federal requirement that requires water conservation or related measures.

13. Richvale does not receive an annual share of property tax revenue. Accordingly, property tax revenue is neither available nor sufficient to cover the costs of the Act's mandates.

14. Richvale does not receive any dedicated state funds for implementation of the Act or for any other purpose; nor am I aware of any dedicated state funds currently available for implementation of the Act. Richvale does not receive any dedicated federal funds for implementation of the Act or for any other purpose; nor am I aware of any dedicated federal funds currently available for implementation of the Act. Richvale does not receive any other nonlocal agency funds for implementation of the Act or for any other purpose; nor am I aware of any nonlocal agency funds currently available for implementation of the Act. Accordingly, because the anticipated and estimated costs of complying with the Act's mandates exceed the amount of dedicated funds Richvale receives for such services, Richvale must use some of its general purpose property tax

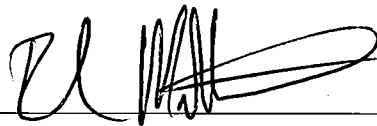
funds – of which, it receives zero dollars – to make up the shortfall and comply with the Act’s mandates.

15. I am unaware of any authority available to Richvale to assess a fee for complying with the Act’s mandates. Richvale is subject to Proposition 218, which divests Richvale of authority to impose assessments or increase fees without the consent and authorization of its landowners and/or customers. Given this lack of authority, it is noteworthy that Richvale’s customers could reject an assessment or fee increase, yet still be subject to the Act’s mandates.

16. Attached as Exhibit 1 is a true and correct copy of the Cost Analysis prepared by the California Department of Water Resources for complying with the regulation contemplated by the Act specifying a range of options for farm-gate measurement.

17. I am informed by Richvale’s legal counsel, Dustin Cooper, that there are no prior test claims addressing the issue of whether the Act’s provisions constitute a reimbursable state mandate. I am also informed by Richvale’s legal counsel that there are no previous joint requests made to the California Legislature to determine if the Act constitutes a reimbursable state mandate. However, I am informed and believe that the Legislative Counsel’s Digest to the Act fails to state whether it constitutes a new program and/or a higher level of service as required by Government Code section 17575.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this the 28th day of June, 2011, at Richvale, California.



Brad Mattson, General Manager
Richvale Irrigation District

Declaration of George Barber on Behalf of
Paradise Irrigation District in Support of the Test Claim

I, George Barber, declare as follows:

1. I make this declaration based on my personal knowledge, except for matters set forth herein on information and belief, and as to those matters I believe them to be true, and if called upon to testify, I could and would competently testify to the matters set forth herein under oath.

2. I am employed by Paradise Irrigation District (hereinafter "Paradise") as its District Manager.

3. I have held my current position since 2004. My duties include managing the day to day operations of Paradise, including overseeing 5 divisional supervisors and 34 employees. I report to Paradise's Board of Directors, which holds a regular monthly meeting on the third Wednesday of each month.

4. I have reviewed the Water Conservation Act of 2009 ("Act") approved by the Governor of the State of California on November 10, 2009, and am familiar with the requirements of the Act as it applies to Paradise. I have reviewed the narrative accompanying the test claim filing and, as to those matters applicable to Paradise, attest to the truth of the statements made therein.

5. Based on my understanding of the requirements of the Act, Paradise is an "urban retail water supplier" and subject to the mandates applicable to urban retail water suppliers. It is my belief that the Act constitutes a new program and/or higher level of service that was not mandated prior to the Act and which are almost exclusively unique on local governmental entities like Paradise. I am informed and believe and on that basis declare that the new programs and/or higher levels of service mandated on Paradise by the Act include:

a. achieving a 20% reduction in urban per capita water use by December 31, 2020;

b. achieving at least a 10% reduction in urban per capita water use by December 31, 2015;

c. adopting more detailed and broader in scope urban water management plans first by July 1, 2011, and thereafter in years that end in 5 and 0 that include baseline daily per capita water use, an urban water use target, interim urban water use target, compliance daily per capita water use, along with the bases for determining estimates, including supporting data; and

d. conducting at least one public meeting to allow input regarding the suppliers implementation plan; consider economic impacts of the implementation plan; and adopt a method for determining the baseline from which to measure the 10 and 20% reductions.

6. None of the new programs or higher levels of service described in Paragraph 5, above, were required prior to the Act's enactment.

7. I am informed and believe and on that basis declare that each of the new programs and/or higher levels of service described in Paragraph 5.a. through 5.d. exceed \$1000 to implement.

8. Paradise's Fiscal Year 2009/2010 ran from July 1, 2009, through June 30, 2010. During Fiscal Year 2009/2010, Paradise incurred approximately \$5,731.61 in direct and indirect costs in beginning to implement the requirements of the Act.

9. Paradise's current Fiscal Year 2010/2011 runs from July 1, 2010, through June 30, 2011. To date, Paradise has incurred approximately \$47,571.46 in direct and indirect costs in complying with the Act.

10. Estimating the exact cost in Fiscal Year 2010/2011 and future Fiscal Years is difficult given that there are a number of unknown variables. For example, it is unknown:

a. what the final form of target method 4 will be given it will not be finalized until December 31, 2014;

b. how much time a consultant and/or staff will need to establish a baseline by July 1, 2011, and thereafter how much time a consultant and/or staff will need to prepare and further urban water management plans in years ending in 0 and 5;

c. what measures will most effectively and economically achieve the interim 10% per capita water use reduction in 2015 and eventual 20% reduction in 2020;

d. if the proposed pipeline replacement plans will maintain the current unaccounted water percentage; and

e. what future water year types will be (e.g., extreme dry, dry, average, wet, etc.) which plays a significant role in urban per capita water use.

Notwithstanding these unknown variables, I am informed and believe and on that basis declare that the direct and indirect costs of compliance with the Act on Paradise will exceed the \$1000 jurisdictional limit per Fiscal Year and cumulatively through 2020 will exceed approximately \$8,000,000.00 and could possibly be much more. For example, the Act mandates a 20% per capita reduction in water use, but does not mandate specific measures to achieve the 20% reduction. It is my belief that Paradise can achieve the mandated conservation through a combination of measures such as facility improvements (e.g., pipeline replacement and processed water recycling at Paradise's treatment plant), water conservation education and training, and tiered water rates that aggressively incentivizes conservation, public information programs, hiring a conservation coordinator and possibly other programs or projects that are currently unknown.

11. The Act does not generally apply to all residents and entities in the State of California. I am informed and believe and on that basis declare that the predominant majority of "urban retail water suppliers" are local governmental agencies, such as Paradise. Accordingly, it is my belief that the Act imposes unique requirements primarily on local agencies.

12. The Act is mandated by the State of California, not as a result of any federal requirement that requires water conservation or related measures.

13. Paradise receives an annual share of property tax revenue. For Fiscal Year 2010/2011 the amount of property tax revenue is expected to be approximately \$240,000. Along with the other demands on these funds, property tax revenue is not sufficient to cover the costs of the Act's mandates.

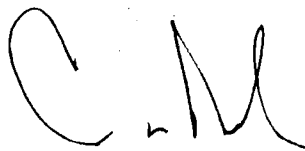
14. Prior to the Act's enactment, Paradise was awarded grant funding for two pipeline replacement projects; there are remaining grant funds not yet expended. Excluding these funds secured prior to the Act, Paradise does not receive any dedicated state funds for implementation of the Act or for any other purpose; nor am I aware of any dedicated state funds currently available for implementation of the Act. Paradise does

not receive any dedicated federal funds for implementation of the Act or for any other purpose; nor am I aware of any dedicated federal funds currently available for implementation of the Act. Paradise does not receive any other nonlocal agency funds for implementation of the Act or for any other purpose; nor am I aware of any nonlocal agency funds currently available for implementation of the Act. Accordingly, because the anticipated and estimated costs of complying with the Act's mandates exceed the amount of dedicated funds Paradise receives for such services, Paradise must use some of its general purpose property tax funds to make up the shortfall and comply with the Act's mandates.

15. I am unaware of any authority available to Paradise to assess a fee for complying with the Act's mandates. Paradise is subject to Proposition 218, which divests Paradise of authority to impose assessments or increase fees without the consent and authorization of its landowners and/or customers. Given this lack of authority, it is notable that Paradise's customers could reject an assessment or fee increase, yet still be subject to the Act's mandates.

16. I am informed by Paradise's Legal Counsel, Dustin Cooper, that there are no prior test claims addressing the issue of whether the Act's provisions constitute a reimbursable state mandate. I am also informed by Paradise's Legal Counsel that there are no previous joint requests made to the California Legislature to determine if the Act constitutes a reimbursable state mandate. However, I am informed and believe that the Legislative Counsel's Digest to the Act fails to state whether it constitutes a new program and/or a higher level of service as required by Government Code section 17575.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this the 28th day of June, 2011, at Paradise, California.



George Barber, District Manager
Paradise Irrigation District

Declaration of Karen Peters on Behalf of
Biggs-West Gridley Water District in Support of the Test Claim

I, Karen Peters, declare as follows:

1. I make this declaration based on my personal knowledge, except for matters set forth herein on information and belief, and as to those matters I believe them to be true, and if called upon to testify, I could and would competently testify to the matters set forth herein under oath.

2. I am employed by Biggs-West Gridley Water District (hereinafter "Biggs") as its Executive Administrator. Prior to being its Executive Administrator and beginning in April of 2009, I was Biggs' General Manager.

3. I have held my current position since November, 2010. My duties include managing the day to day financial and administrative operations of Biggs. I report to Biggs's Board of Directors, which holds a regular monthly meeting on the third Wednesday of every month.

4. I have reviewed the Water Conservation Act of 2009 ("Act") approved by the Governor of the State of California on November 10, 2009, and am familiar with the requirements of the Act as it applies to Biggs. I have reviewed the narrative accompanying the test claim filing and, as to those matters applicable to Biggs, attest to the truth of the statements made therein.

5. Based on my understanding of the requirements of the Act, Biggs is an "agricultural water supplier" and subject to the mandates applicable to agricultural water suppliers. It is my belief that the Act constitutes a new program and/or higher level of service that was not mandated prior to the Act and which are almost exclusively unique on local governmental entities like Biggs. I am informed and believe and on that basis declare that the new programs and/or higher levels of service mandated on Biggs by the Act include:

a. measuring the volume of water delivered to Biggs's customers using best professional practices to achieve a minimum level of measurement accuracy at each farm-gate (i.e., at each customer's point of delivery);

b. adopting a pricing structure for water customers based on the quantity of water delivered;

c. if “locally cost effective” and technically feasible, implementing up to fourteen additional efficient management practices, such as financing capital improvements for on-farm irrigation systems, designating an existing employee or hiring a new employee to be a “water conservation coordinator”; and to expand line or pipe water distribution systems; and

d. prepare, on or before December 31, 2012, an agricultural water management plan, include all the required components of such plan, and publish notifications for and conduct at least one public hearing prior to adoption of the plan.

6. None of the new programs or higher levels of service described in Paragraph 5, above, were required prior to the Act’s enactment.

7. I am informed and believe and on that basis declare that each of the new programs and/or higher levels of service described in Paragraph 5.a. through 5.d. exceed \$1000 to implement.

8. Biggs’s Fiscal Year 2010 ran from January 1, 2010, through December 31, 2010. During Fiscal Year 2010, Biggs incurred approximately \$10,751.77 in direct and indirect costs in beginning to implement the requirements of the Act.

9. Biggs’s current Fiscal Year 2011 runs from January 1, 2011, through December 31, 2011. To date, Biggs has incurred approximately \$53,853.46 in direct and indirect costs in complying with the Act.

10. Estimating the exact cost in Fiscal Year 2011 and future Fiscal Years is difficult given that there are a number of unknown variables. For example, it is unknown:

a. what the California Department of Water Resources will adopt as regulations specifying a range of options for the accuracy required of each farm-gate measurement device;

b. whether a new volumetric pricing structure will be adopted by Biggs’s landowners pursuant to the Proposition 218 process; and

c. whether the fourteen additional conservation measures will be “locally cost effective” as defined by the Act.

Notwithstanding these unknown variables, I am informed and believe and on that basis declare that the direct and indirect costs of compliance with the Act on Biggs will exceed the \$1000 jurisdictional limit per Fiscal Year and cumulatively through 2020 will be approximately in the \$2 million to \$4 million range and could possibly be much more. Biggs currently does not

implement farm-gate measurement and, instead, charges for water on the basis of crop usage and a not to exceed number of irrigations (rice is charged a flat per acre fee). Thus, in order to comply with the Act, Biggs must install measurement devices at each of its approximately 390 farm-gate turnouts at an estimated cost of approximately \$4000 to \$7000 or higher per turnout depending on what is ultimately required by the Department of Water Resources regulation. Biggs' labor costs will dramatically increase to maintain and operate the farm-gate measurement devices. Additionally, Biggs will have to comply with Proposition 218 to change its rates to charge, at least in part, on the volume of water delivered to each customer and it is unknown whether Biggs' customers will approve of such a change.

11. The Act does not generally apply to all residents and entities in the State of California. I am informed and believe and on that basis declare that the predominant majority of "agricultural water suppliers" are local governmental agencies, such as Biggs. Accordingly, it is my belief that the Act imposes unique requirements primarily on local agencies.

12. The Act is mandated by the State of California, not as a result of any federal requirement that requires water conservation or related measures.

13. Biggs receives an annual share of property tax revenue. For Fiscal Year 2011 the amount of property tax revenue is expected to be approximately \$64,000. Along with the other demands on these funds, property tax revenue is not sufficient to cover the costs of the Act's mandates.

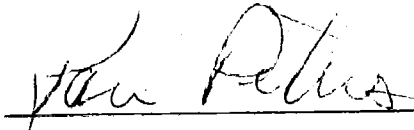
14. Biggs does not receive any dedicated state funds for implementation of the Act or for any other purpose; nor am I aware of any dedicated state funds currently available for implementation of the Act. Biggs does not receive any dedicated federal funds for implementation of the Act or for any other purpose; nor am I aware of any dedicated federal funds currently available for implementation of the Act. Biggs does not receive any other nonlocal agency funds for implementation of the Act or for any other purpose; nor am I aware of any nonlocal agency funds currently available for implementation of the Act. Accordingly, because the anticipated and estimated costs of complying with the Act's mandates exceed the amount of dedicated funds Biggs receives for such services, Biggs must use some of its general purpose property tax funds to make up the shortfall and comply with the Act's mandates.

15. I am unaware of any authority available to Biggs to assess a fee for complying with the Act's mandates. Biggs is subject to Proposition 218, which divests Biggs of authority to

impose assessments or increase fees without the consent and authorization of its landowners and/or customers. Given this lack of authority, it is noteworthy that Biggs's customers could reject an assessment or fee increase, yet still be subject to the Act's mandates.

16. I am informed by Biggs's legal counsel, Dustin Cooper, that there are no prior test claims addressing the issue of whether the Act's provisions constitute a reimbursable state mandate. I am also informed by Biggs's legal counsel that there are no previous joint requests made to the California Legislature to determine if the Act constitutes a reimbursable state mandate. However, I am informed and believe that the Legislative Counsel's Digest to the Act fails to state whether it constitutes a new program and/or a higher level of service as required by Government Code section 17575.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this the 29th day of June, 2011, at Madison City, California.



Karen Peters, Executive Administrator
Biggs-West Gridley Water District

SECTION 7. DOCUMENTATION

In Support of Joint Test Claims In Re Water Conservation Act of 2009

Claimants:

South Feather Water & Power Agency
Paradise Irrigation District
Richvale Irrigation District
Biggs-West Gridley Water District

Senate Bill No. 7

CHAPTER 4

An act to amend and repeal Section 10631.5 of, to add Part 2.55 (commencing with Section 10608) to Division 6 of, and to repeal and add Part 2.8 (commencing with Section 10800) of Division 6 of, the Water Code, relating to water.

[Approved by Governor November 10, 2009. Filed with
Secretary of State November 10, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 7, Steinberg. Water conservation.

(1) Existing law requires the Department of Water Resources to convene an independent technical panel to provide information to the department and the Legislature on new demand management measures, technologies, and approaches. "Demand management measures" means those water conservation measures, programs, and incentives that prevent the waste of water and promote the reasonable and efficient use and reuse of available supplies.

This bill would require the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. The state would be required to make incremental progress towards this goal by reducing per capita water use by at least 10% on or before December 31, 2015. The bill would require each urban retail water supplier to develop urban water use targets and an interim urban water use target, in accordance with specified requirements. The bill would require agricultural water suppliers to implement efficient water management practices. The bill would require the department, in consultation with other state agencies, to develop a single standardized water use reporting form. The bill, with certain exceptions, would provide that urban retail water suppliers, on and after July 1, 2016, and agricultural water suppliers, on and after July 1, 2013, are not eligible for state water grants or loans unless they comply with the water conservation requirements established by the bill. The bill would repeal, on July 1, 2016, an existing requirement that conditions eligibility for certain water management grants or loans to an urban water supplier on the implementation of certain water demand management measures.

(2) Existing law, until January 1, 1993, and thereafter only as specified, requires certain agricultural water suppliers to prepare and adopt water management plans.

This bill would revise existing law relating to agricultural water management planning to require agricultural water suppliers to prepare and adopt agricultural water management plans with specified components on or before December 31, 2012, and update those plans on or before December

31, 2015, and on or before December 31 every 5 years thereafter. An agricultural water supplier that becomes an agricultural water supplier after December 31, 2012, would be required to prepare and adopt an agricultural water management plan within one year after becoming an agricultural water supplier. The agricultural water supplier would be required to notify each city or county within which the supplier provides water supplies with regard to the preparation or review of the plan. The bill would require the agricultural water supplier to submit copies of the plan to the department and other specified entities. The bill would provide that an agricultural water supplier is not eligible for state water grants or loans unless the supplier complies with the water management planning requirements established by the bill.

(3) The bill would take effect only if SB 1 and SB 6 of the 2009–10 7th Extraordinary Session of the Legislature are enacted and become effective.

The people of the State of California do enact as follows:

SECTION 1. Part 2.55 (commencing with Section 10608) is added to Division 6 of the Water Code, to read:

PART 2.55. SUSTAINABLE WATER USE AND DEMAND REDUCTION

CHAPTER 1. GENERAL DECLARATIONS AND POLICY

10608. The Legislature finds and declares all of the following:

(a) Water is a public resource that the California Constitution protects against waste and unreasonable use.

(b) Growing population, climate change, and the need to protect and grow California's economy while protecting and restoring our fish and wildlife habitats make it essential that the state manage its water resources as efficiently as possible.

(c) Diverse regional water supply portfolios will increase water supply reliability and reduce dependence on the Delta.

(d) Reduced water use through conservation provides significant energy and environmental benefits, and can help protect water quality, improve streamflows, and reduce greenhouse gas emissions.

(e) The success of state and local water conservation programs to increase efficiency of water use is best determined on the basis of measurable outcomes related to water use or efficiency.

(f) Improvements in technology and management practices offer the potential for increasing water efficiency in California over time, providing an essential water management tool to meet the need for water for urban, agricultural, and environmental uses.

(g) The Governor has called for a 20 percent per capita reduction in urban water use statewide by 2020.

(h) The factors used to formulate water use efficiency targets can vary significantly from location to location based on factors including weather, patterns of urban and suburban development, and past efforts to enhance water use efficiency.

(i) Per capita water use is a valid measure of a water provider's efforts to reduce urban water use within its service area. However, per capita water use is less useful for measuring relative water use efficiency between different water providers. Differences in weather, historical patterns of urban and suburban development, and density of housing in a particular location need to be considered when assessing per capita water use as a measure of efficiency.

10608.4. It is the intent of the Legislature, by the enactment of this part, to do all of the following:

(a) Require all water suppliers to increase the efficiency of use of this essential resource.

(b) Establish a framework to meet the state targets for urban water conservation identified in this part and called for by the Governor.

(c) Measure increased efficiency of urban water use on a per capita basis.

(d) Establish a method or methods for urban retail water suppliers to determine targets for achieving increased water use efficiency by the year 2020, in accordance with the Governor's goal of a 20-percent reduction.

(e) Establish consistent water use efficiency planning and implementation standards for urban water suppliers and agricultural water suppliers.

(f) Promote urban water conservation standards that are consistent with the California Urban Water Conservation Council's adopted best management practices and the requirements for demand management in Section 10631.

(g) Establish standards that recognize and provide credit to water suppliers that made substantial capital investments in urban water conservation since the drought of the early 1990s.

(h) Recognize and account for the investment of urban retail water suppliers in providing recycled water for beneficial uses.

(i) Require implementation of specified efficient water management practices for agricultural water suppliers.

(j) Support the economic productivity of California's agricultural, commercial, and industrial sectors.

(k) Advance regional water resources management.

10608.8. (a) (1) Water use efficiency measures adopted and implemented pursuant to this part or Part 2.8 (commencing with Section 10800) are water conservation measures subject to the protections provided under Section 1011.

(2) Because an urban agency is not required to meet its urban water use target until 2020 pursuant to subdivision (b) of Section 10608.24, an urban retail water supplier's failure to meet those targets shall not establish a violation of law for purposes of any state administrative or judicial proceeding prior to January 1, 2021. Nothing in this paragraph limits the use of data reported to the department or the board in litigation or an

administrative proceeding. This paragraph shall become inoperative on January 1, 2021.

(3) To the extent feasible, the department and the board shall provide for the use of water conservation reports required under this part to meet the requirements of Section 1011 for water conservation reporting.

(b) This part does not limit or otherwise affect the application of Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) This part does not require a reduction in the total water used in the agricultural or urban sectors, because other factors, including, but not limited to, changes in agricultural economics or population growth may have greater effects on water use. This part does not limit the economic productivity of California's agricultural, commercial, or industrial sectors.

(d) The requirements of this part do not apply to an agricultural water supplier that is a party to the Quantification Settlement Agreement, as defined in subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002, during the period within which the Quantification Settlement Agreement remains in effect. After the expiration of the Quantification Settlement Agreement, to the extent conservation water projects implemented as part of the Quantification Settlement Agreement remain in effect, the conserved water created as part of those projects shall be credited against the obligations of the agricultural water supplier pursuant to this part.

CHAPTER 2. DEFINITIONS

10608.12. Unless the context otherwise requires, the following definitions govern the construction of this part:

(a) "Agricultural water supplier" means a water supplier, either publicly or privately owned, providing water to 10,000 or more irrigated acres, excluding recycled water. "Agricultural water supplier" includes a supplier or contractor for water, regardless of the basis of right, that distributes or sells water for ultimate resale to customers. "Agricultural water supplier" does not include the department.

(b) "Base daily per capita water use" means any of the following:

(1) The urban retail water supplier's estimate of its average gross water use, reported in gallons per capita per day and calculated over a continuous 10-year period ending no earlier than December 31, 2004, and no later than December 31, 2010.

(2) For an urban retail water supplier that meets at least 10 percent of its 2008 measured retail water demand through recycled water that is delivered within the service area of an urban retail water supplier or its urban wholesale water supplier, the urban retail water supplier may extend the calculation described in paragraph (1) up to an additional five years to a maximum of

a continuous 15-year period ending no earlier than December 31, 2004, and no later than December 31, 2010.

(3) For the purposes of Section 10608.22, the urban retail water supplier's estimate of its average gross water use, reported in gallons per capita per day and calculated over a continuous five-year period ending no earlier than December 31, 2007, and no later than December 31, 2010.

(c) "Baseline commercial, industrial, and institutional water use" means an urban retail water supplier's base daily per capita water use for commercial, industrial, and institutional users.

(d) "Commercial water user" means a water user that provides or distributes a product or service.

(e) "Compliance daily per capita water use" means the gross water use during the final year of the reporting period, reported in gallons per capita per day.

(f) "Disadvantaged community" means a community with an annual median household income that is less than 80 percent of the statewide annual median household income.

(g) "Gross water use" means the total volume of water, whether treated or untreated, entering the distribution system of an urban retail water supplier, excluding all of the following:

(1) Recycled water that is delivered within the service area of an urban retail water supplier or its urban wholesale water supplier.

(2) The net volume of water that the urban retail water supplier places into long-term storage.

(3) The volume of water the urban retail water supplier conveys for use by another urban water supplier.

(4) The volume of water delivered for agricultural use, except as otherwise provided in subdivision (f) of Section 10608.24.

(h) "Industrial water user" means a water user that is primarily a manufacturer or processor of materials as defined by the North American Industry Classification System code sectors 31 to 33, inclusive, or an entity that is a water user primarily engaged in research and development.

(i) "Institutional water user" means a water user dedicated to public service. This type of user includes, among other users, higher education institutions, schools, courts, churches, hospitals, government facilities, and nonprofit research institutions.

(j) "Interim urban water use target" means the midpoint between the urban retail water supplier's base daily per capita water use and the urban retail water supplier's urban water use target for 2020.

(k) "Locally cost effective" means that the present value of the local benefits of implementing an agricultural efficiency water management practice is greater than or equal to the present value of the local cost of implementing that measure.

(l) "Process water" means water used for producing a product or product content or water used for research and development, including, but not limited to, continuous manufacturing processes, water used for testing and maintaining equipment used in producing a product or product content, and

water used in combined heat and power facilities used in producing a product or product content. Process water does not mean incidental water uses not related to the production of a product or product content, including, but not limited to, water used for restrooms, landscaping, air conditioning, heating, kitchens, and laundry.

(m) "Recycled water" means recycled water, as defined in subdivision (n) of Section 13050, that is used to offset potable demand, including recycled water supplied for direct use and indirect potable reuse, that meets the following requirements, where applicable:

(1) For groundwater recharge, including recharge through spreading basins, water supplies that are all of the following:

(A) Metered.

(B) Developed through planned investment by the urban water supplier or a wastewater treatment agency.

(C) Treated to a minimum tertiary level.

(D) Delivered within the service area of an urban retail water supplier or its urban wholesale water supplier that helps an urban retail water supplier meet its urban water use target.

(2) For reservoir augmentation, water supplies that meet the criteria of paragraph (1) and are conveyed through a distribution system constructed specifically for recycled water.

(n) "Regional water resources management" means sources of supply resulting from watershed-based planning for sustainable local water reliability or any of the following alternative sources of water:

(1) The capture and reuse of stormwater or rainwater.

(2) The use of recycled water.

(3) The desalination of brackish groundwater.

(4) The conjunctive use of surface water and groundwater in a manner that is consistent with the safe yield of the groundwater basin.

(o) "Reporting period" means the years for which an urban retail water supplier reports compliance with the urban water use targets.

(p) "Urban retail water supplier" means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes.

(q) "Urban water use target" means the urban retail water supplier's targeted future daily per capita water use.

(r) "Urban wholesale water supplier," means a water supplier, either publicly or privately owned, that provides more than 3,000 acre-feet of water annually at wholesale for potable municipal purposes.

CHAPTER 3. URBAN RETAIL WATER SUPPLIERS

10608.16. (a) The state shall achieve a 20-percent reduction in urban per capita water use in California on or before December 31, 2020.

(b) The state shall make incremental progress towards the state target specified in subdivision (a) by reducing urban per capita water use by at least 10 percent on or before December 31, 2015.

10608.20. (a) (1) Each urban retail water supplier shall develop urban water use targets and an interim urban water use target by July 1, 2011. Urban retail water suppliers may elect to determine and report progress toward achieving these targets on an individual or regional basis, as provided in subdivision (a) of Section 10608.28, and may determine the targets on a fiscal year or calendar year basis.

(2) It is the intent of the Legislature that the urban water use targets described in subdivision (a) cumulatively result in a 20-percent reduction from the baseline daily per capita water use by December 31, 2020.

(b) An urban retail water supplier shall adopt one of the following methods for determining its urban water use target pursuant to subdivision (a):

(1) Eighty percent of the urban retail water supplier's baseline per capita daily water use.

(2) The per capita daily water use that is estimated using the sum of the following performance standards:

(A) For indoor residential water use, 55 gallons per capita daily water use as a provisional standard. Upon completion of the department's 2016 report to the Legislature pursuant to Section 10608.42, this standard may be adjusted by the Legislature by statute.

(B) For landscape irrigated through dedicated or residential meters or connections, water efficiency equivalent to the standards of the Model Water Efficient Landscape Ordinance set forth in Chapter 2.7 (commencing with Section 490) of Division 2 of Title 23 of the California Code of Regulations, as in effect the later of the year of the landscape's installation or 1992. An urban retail water supplier using the approach specified in this subparagraph shall use satellite imagery, site visits, or other best available technology to develop an accurate estimate of landscaped areas.

(C) For commercial, industrial, and institutional uses, a 10-percent reduction in water use from the baseline commercial, industrial, and institutional water use by 2020.

(3) Ninety-five percent of the applicable state hydrologic region target, as set forth in the state's draft 20x2020 Water Conservation Plan (dated April 30, 2009). If the service area of an urban water supplier includes more than one hydrologic region, the supplier shall apportion its service area to each region based on population or area.

(4) A method that shall be identified and developed by the department, through a public process, and reported to the Legislature no later than December 31, 2010. The method developed by the department shall identify per capita targets that cumulatively result in a statewide 20-percent reduction in urban daily per capita water use by December 31, 2020. In developing urban daily per capita water use targets, the department shall do all of the following:

(A) Consider climatic differences within the state.

(B) Consider population density differences within the state.
(C) Provide flexibility to communities and regions in meeting the targets.
(D) Consider different levels of per capita water use according to plant water needs in different regions.

(E) Consider different levels of commercial, industrial, and institutional water use in different regions of the state.

(F) Avoid placing an undue hardship on communities that have implemented conservation measures or taken actions to keep per capita water use low.

(c) If the department adopts a regulation pursuant to paragraph (4) of subdivision (b) that results in a requirement that an urban retail water supplier achieve a reduction in daily per capita water use that is greater than 20 percent by December 31, 2020, an urban retail water supplier that adopted the method described in paragraph (4) of subdivision (b) may limit its urban water use target to a reduction of not more than 20 percent by December 31, 2020, by adopting the method described in paragraph (1) of subdivision (b).

(d) The department shall update the method described in paragraph (4) of subdivision (b) and report to the Legislature by December 31, 2014. An urban retail water supplier that adopted the method described in paragraph (4) of subdivision (b) may adopt a new urban daily per capita water use target pursuant to this updated method.

(e) An urban retail water supplier shall include in its urban water management plan required pursuant to Part 2.6 (commencing with Section 10610) due in 2010 the baseline daily per capita water use, urban water use target, interim urban water use target, and compliance daily per capita water use, along with the bases for determining those estimates, including references to supporting data.

(f) When calculating per capita values for the purposes of this chapter, an urban retail water supplier shall determine population using federal, state, and local population reports and projections.

(g) An urban retail water supplier may update its 2020 urban water use target in its 2015 urban water management plan required pursuant to Part 2.6 (commencing with Section 10610).

(h) (1) The department, through a public process and in consultation with the California Urban Water Conservation Council, shall develop technical methodologies and criteria for the consistent implementation of this part, including, but not limited to, both of the following:

(A) Methodologies for calculating base daily per capita water use, baseline commercial, industrial, and institutional water use, compliance daily per capita water use, gross water use, service area population, indoor residential water use, and landscaped area water use.

(B) Criteria for adjustments pursuant to subdivisions (d) and (e) of Section 10608.24.

(2) The department shall post the methodologies and criteria developed pursuant to this subdivision on its Internet Web site, and make written copies

available, by October 1, 2010. An urban retail water supplier shall use the methods developed by the department in compliance with this part.

(i) (1) The department shall adopt regulations for implementation of the provisions relating to process water in accordance with subdivision (l) of Section 10608.12, subdivision (e) of Section 10608.24, and subdivision (d) of Section 10608.26.

(2) The initial adoption of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption of an emergency regulation pursuant to this subdivision, the department shall not request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.

(j) An urban retail water supplier shall be granted an extension to July 1, 2011, for adoption of an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) due in 2010 to allow use of technical methodologies developed by the department pursuant to paragraph (4) of subdivision (b) and subdivision (h). An urban retail water supplier that adopts an urban water management plan due in 2010 that does not use the methodologies developed by the department pursuant to subdivision (h) shall amend the plan by July 1, 2011, to comply with this part.

10608.22. Notwithstanding the method adopted by an urban retail water supplier pursuant to Section 10608.20, an urban retail water supplier's per capita daily water use reduction shall be no less than 5 percent of base daily per capita water use as defined in paragraph (3) of subdivision (b) of Section 10608.12. This section does not apply to an urban retail water supplier with a base daily per capita water use at or below 100 gallons per capita per day.

10608.24. (a) Each urban retail water supplier shall meet its interim urban water use target by December 31, 2015.

(b) Each urban retail water supplier shall meet its urban water use target by December 31, 2020.

(c) An urban retail water supplier's compliance daily per capita water use shall be the measure of progress toward achievement of its urban water use target.

(d) (1) When determining compliance daily per capita water use, an urban retail water supplier may consider the following factors:

(A) Differences in evapotranspiration and rainfall in the baseline period compared to the compliance reporting period.

(B) Substantial changes to commercial or industrial water use resulting from increased business output and economic development that have occurred during the reporting period.

(C) Substantial changes to institutional water use resulting from fire suppression services or other extraordinary events, or from new or expanded operations, that have occurred during the reporting period.

(2) If the urban retail water supplier elects to adjust its estimate of compliance daily per capita water use due to one or more of the factors described in paragraph (1), it shall provide the basis for, and data supporting, the adjustment in the report required by Section 10608.40.

(e) When developing the urban water use target pursuant to Section 10608.20, an urban retail water supplier that has a substantial percentage of industrial water use in its service area, may exclude process water from the calculation of gross water use to avoid a disproportionate burden on another customer sector.

(f) (1) An urban retail water supplier that includes agricultural water use in an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) may include the agricultural water use in determining gross water use. An urban retail water supplier that includes agricultural water use in determining gross water use and develops its urban water use target pursuant to paragraph (2) of subdivision (b) of Section 10608.20 shall use a water efficient standard for agricultural irrigation of 100 percent of reference evapotranspiration multiplied by the crop coefficient for irrigated acres.

(2) An urban retail water supplier, that is also an agricultural water supplier, is not subject to the requirements of Chapter 4 (commencing with Section 10608.48), if the agricultural water use is incorporated into its urban water use target pursuant to paragraph (1).

10608.26. (a) In complying with this part, an urban retail water supplier shall conduct at least one public hearing to accomplish all of the following:

(1) Allow community input regarding the urban retail water supplier's implementation plan for complying with this part.

(2) Consider the economic impacts of the urban retail water supplier's implementation plan for complying with this part.

(3) Adopt a method, pursuant to subdivision (b) of Section 10608.20, for determining its urban water use target.

(b) In complying with this part, an urban retail water supplier may meet its urban water use target through efficiency improvements in any combination among its customer sectors. An urban retail water supplier shall avoid placing a disproportionate burden on any customer sector.

(c) For an urban retail water supplier that supplies water to a United States Department of Defense military installation, the urban retail water supplier's implementation plan for complying with this part shall consider the United States Department of Defense military installation's requirements under federal Executive Order 13423.

(d) (1) Any ordinance or resolution adopted by an urban retail water supplier after the effective date of this section shall not require existing customers as of the effective date of this section, to undertake changes in product formulation, operations, or equipment that would reduce process water use, but may provide technical assistance and financial incentives to those customers to implement efficiency measures for process water. This section shall not limit an ordinance or resolution adopted pursuant to a declaration of drought emergency by an urban retail water supplier.

(2) This part shall not be construed or enforced so as to interfere with the requirements of Chapter 4 (commencing with Section 113980) to Chapter 13 (commencing with Section 114380), inclusive, of Part 7 of Division 104 of the Health and Safety Code, or any requirement or standard for the protection of public health, public safety, or worker safety established by federal, state, or local government or recommended by recognized standard setting organizations or trade associations.

10608.28. (a) An urban retail water supplier may meet its urban water use target within its retail service area, or through mutual agreement, by any of the following:

- (1) Through an urban wholesale water supplier.
- (2) Through a regional agency authorized to plan and implement water conservation, including, but not limited to, an agency established under the Bay Area Water Supply and Conservation Agency Act (Division 31 (commencing with Section 81300)).
- (3) Through a regional water management group as defined in Section 10537.
- (4) By an integrated regional water management funding area.
- (5) By hydrologic region.
- (6) Through other appropriate geographic scales for which computation methods have been developed by the department.

(b) A regional water management group, with the written consent of its member agencies, may undertake any or all planning, reporting, and implementation functions under this chapter for the member agencies that consent to those activities. Any data or reports shall provide information both for the regional water management group and separately for each consenting urban retail water supplier and urban wholesale water supplier.

10608.32. All costs incurred pursuant to this part by a water utility regulated by the Public Utilities Commission may be recoverable in rates subject to review and approval by the Public Utilities Commission, and may be recorded in a memorandum account and reviewed for reasonableness by the Public Utilities Commission.

10608.36. Urban wholesale water suppliers shall include in the urban water management plans required pursuant to Part 2.6 (commencing with Section 10610) an assessment of their present and proposed future measures, programs, and policies to help achieve the water use reductions required by this part.

10608.40. Urban water retail suppliers shall report to the department on their progress in meeting their urban water use targets as part of their urban water management plans submitted pursuant to Section 10631. The data shall be reported using a standardized form developed pursuant to Section 10608.52.

10608.42. The department shall review the 2015 urban water management plans and report to the Legislature by December 31, 2016, on progress towards achieving a 20-percent reduction in urban water use by December 31, 2020. The report shall include recommendations on changes to water efficiency standards or urban water use targets in order to achieve

the 20-percent reduction and to reflect updated efficiency information and technology changes.

10608.43. The department, in conjunction with the California Urban Water Conservation Council, by April 1, 2010, shall convene a representative task force consisting of academic experts, urban retail water suppliers, environmental organizations, commercial water users, industrial water users, and institutional water users to develop alternative best management practices for commercial, industrial, and institutional users and an assessment of the potential statewide water use efficiency improvement in the commercial, industrial, and institutional sectors that would result from implementation of these best management practices. The taskforce, in conjunction with the department, shall submit a report to the Legislature by April 1, 2012, that shall include a review of multiple sectors within commercial, industrial, and institutional users and that shall recommend water use efficiency standards for commercial, industrial, and institutional users among various sectors of water use. The report shall include, but not be limited to, the following:

- (a) Appropriate metrics for evaluating commercial, industrial, and institutional water use.
- (b) Evaluation of water demands for manufacturing processes, goods, and cooling.
- (c) Evaluation of public infrastructure necessary for delivery of recycled water to the commercial, industrial, and institutional sectors.
- (d) Evaluation of institutional and economic barriers to increased recycled water use within the commercial, industrial, and institutional sectors.
- (e) Identification of technical feasibility and cost of the best management practices to achieve more efficient water use statewide in the commercial, industrial, and institutional sectors that is consistent with the public interest and reflects past investments in water use efficiency.

10608.44. Each state agency shall reduce water use on facilities it operates to support urban retail water suppliers in meeting the target identified in Section 10608.16.

CHAPTER 4. AGRICULTURAL WATER SUPPLIERS

10608.48. (a) On or before July 31, 2012, an agricultural water supplier shall implement efficient water management practices pursuant to subdivisions (b) and (c).

(b) Agricultural water suppliers shall implement all of the following critical efficient management practices:

(1) Measure the volume of water delivered to customers with sufficient accuracy to comply with subdivision (a) of Section 531.10 and to implement paragraph (2).

(2) Adopt a pricing structure for water customers based at least in part on quantity delivered.

(c) Agricultural water suppliers shall implement additional efficient management practices, including, but not limited to, practices to accomplish all of the following, if the measures are locally cost effective and technically feasible:

(1) Facilitate alternative land use for lands with exceptionally high water duties or whose irrigation contributes to significant problems, including drainage.

(2) Facilitate use of available recycled water that otherwise would not be used beneficially, meets all health and safety criteria, and does not harm crops or soils.

(3) Facilitate the financing of capital improvements for on-farm irrigation systems.

(4) Implement an incentive pricing structure that promotes one or more of the following goals:

(A) More efficient water use at the farm level.

(B) Conjunctive use of groundwater.

(C) Appropriate increase of groundwater recharge.

(D) Reduction in problem drainage.

(E) Improved management of environmental resources.

(F) Effective management of all water sources throughout the year by adjusting seasonal pricing structures based on current conditions.

(5) Expand line or pipe distribution systems, and construct regulatory reservoirs to increase distribution system flexibility and capacity, decrease maintenance, and reduce seepage.

(6) Increase flexibility in water ordering by, and delivery to, water customers within operational limits.

(7) Construct and operate supplier spill and tailwater recovery systems.

(8) Increase planned conjunctive use of surface water and groundwater within the supplier service area.

(9) Automate canal control structures.

(10) Facilitate or promote customer pump testing and evaluation.

(11) Designate a water conservation coordinator who will develop and implement the water management plan and prepare progress reports.

(12) Provide for the availability of water management services to water users. These services may include, but are not limited to, all of the following:

(A) On-farm irrigation and drainage system evaluations.

(B) Normal year and real-time irrigation scheduling and crop evapotranspiration information.

(C) Surface water, groundwater, and drainage water quantity and quality data.

(D) Agricultural water management educational programs and materials for farmers, staff, and the public.

(13) Evaluate the policies of agencies that provide the supplier with water to identify the potential for institutional changes to allow more flexible water deliveries and storage.

(14) Evaluate and improve the efficiencies of the supplier's pumps.

(d) Agricultural water suppliers shall include in the agricultural water management plans required pursuant to Part 2.8 (commencing with Section 10800) a report on which efficient water management practices have been implemented and are planned to be implemented, an estimate of the water use efficiency improvements that have occurred since the last report, and an estimate of the water use efficiency improvements estimated to occur five and 10 years in the future. If an agricultural water supplier determines that an efficient water management practice is not locally cost effective or technically feasible, the supplier shall submit information documenting that determination.

(e) The data shall be reported using a standardized form developed pursuant to Section 10608.52.

(f) An agricultural water supplier may meet the requirements of subdivisions (d) and (e) by submitting to the department a water conservation plan submitted to the United States Bureau of Reclamation that meets the requirements described in Section 10828.

(g) On or before December 31, 2013, December 31, 2016, and December 31, 2021, the department, in consultation with the board, shall submit to the Legislature a report on the agricultural efficient water management practices that have been implemented and are planned to be implemented and an assessment of the manner in which the implementation of those efficient water management practices has affected and will affect agricultural operations, including estimated water use efficiency improvements, if any.

(h) The department may update the efficient water management practices required pursuant to subdivision (c), in consultation with the Agricultural Water Management Council, the United States Bureau of Reclamation, and the board. All efficient water management practices for agricultural water use pursuant to this chapter shall be adopted or revised by the department only after the department conducts public hearings to allow participation of the diverse geographical areas and interests of the state.

(i) (1) The department shall adopt regulations that provide for a range of options that agricultural water suppliers may use or implement to comply with the measurement requirement in paragraph (1) of subdivision (b).

(2) The initial adoption of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption of an emergency regulation pursuant to this subdivision, the department shall not request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.

CHAPTER 5. SUSTAINABLE WATER MANAGEMENT

10608.50. (a) The department, in consultation with the board, shall promote implementation of regional water resources management practices through increased incentives and removal of barriers consistent with state and federal law. Potential changes may include, but are not limited to, all of the following:

- (1) Revisions to the requirements for urban and agricultural water management plans.
- (2) Revisions to the requirements for integrated regional water management plans.
- (3) Revisions to the eligibility for state water management grants and loans.
- (4) Revisions to state or local permitting requirements that increase water supply opportunities, but do not weaken water quality protection under state and federal law.
- (5) Increased funding for research, feasibility studies, and project construction.
- (6) Expanding technical and educational support for local land use and water management agencies.

(b) No later than January 1, 2011, and updated as part of the California Water Plan, the department, in consultation with the board, and with public input, shall propose new statewide targets, or review and update existing statewide targets, for regional water resources management practices, including, but not limited to, recycled water, brackish groundwater desalination, and infiltration and direct use of urban stormwater runoff.

CHAPTER 6. STANDARDIZED DATA COLLECTION

10608.52. (a) The department, in consultation with the board, the California Bay-Delta Authority or its successor agency, the State Department of Public Health, and the Public Utilities Commission, shall develop a single standardized water use reporting form to meet the water use information needs of each agency, including the needs of urban water suppliers that elect to determine and report progress toward achieving targets on a regional basis as provided in subdivision (a) of Section 10608.28.

(b) At a minimum, the form shall be developed to accommodate information sufficient to assess an urban water supplier's compliance with conservation targets pursuant to Section 10608.24 and an agricultural water supplier's compliance with implementation of efficient water management practices pursuant to subdivision (a) of Section 10608.48. The form shall accommodate reporting by urban water suppliers on an individual or regional basis as provided in subdivision (a) of Section 10608.28.

CHAPTER 7. FUNDING PROVISIONS

10608.56. (a) On and after July 1, 2016, an urban retail water supplier is not eligible for a water grant or loan awarded or administered by the state unless the supplier complies with this part.

(b) On and after July 1, 2013, an agricultural water supplier is not eligible for a water grant or loan awarded or administered by the state unless the supplier complies with this part.

(c) Notwithstanding subdivision (a), the department shall determine that an urban retail water supplier is eligible for a water grant or loan even though the supplier has not met the per capita reductions required pursuant to Section 10608.24, if the urban retail water supplier has submitted to the department for approval a schedule, financing plan, and budget, to be included in the grant or loan agreement, for achieving the per capita reductions. The supplier may request grant or loan funds to achieve the per capita reductions to the extent the request is consistent with the eligibility requirements applicable to the water funds.

(d) Notwithstanding subdivision (b), the department shall determine that an agricultural water supplier is eligible for a water grant or loan even though the supplier is not implementing all of the efficient water management practices described in Section 10608.48, if the agricultural water supplier has submitted to the department for approval a schedule, financing plan, and budget, to be included in the grant or loan agreement, for implementation of the efficient water management practices. The supplier may request grant or loan funds to implement the efficient water management practices to the extent the request is consistent with the eligibility requirements applicable to the water funds.

(e) Notwithstanding subdivision (a), the department shall determine that an urban retail water supplier is eligible for a water grant or loan even though the supplier has not met the per capita reductions required pursuant to Section 10608.24, if the urban retail water supplier has submitted to the department for approval documentation demonstrating that its entire service area qualifies as a disadvantaged community.

(f) The department shall not deny eligibility to an urban retail water supplier or agricultural water supplier in compliance with the requirements of this part and Part 2.8 (commencing with Section 10800), that is participating in a multiagency water project, or an integrated regional water management plan, developed pursuant to Section 75026 of the Public Resources Code, solely on the basis that one or more of the agencies participating in the project or plan is not implementing all of the requirements of this part or Part 2.8 (commencing with Section 10800).

10608.60. (a) It is the intent of the Legislature that funds made available by Section 75026 of the Public Resources Code should be expended, consistent with Division 43 (commencing with Section 75001) of the Public Resources Code and upon appropriation by the Legislature, for grants to implement this part. In the allocation of funding, it is the intent of the

Legislature that the department give consideration to disadvantaged communities to assist in implementing the requirements of this part.

(b) It is the intent of the Legislature that funds made available by Section 75041 of the Public Resources Code, should be expended, consistent with Division 43 (commencing with Section 75001) of the Public Resources Code and upon appropriation by the Legislature, for direct expenditures to implement this part.

CHAPTER 8. QUANTIFYING AGRICULTURAL WATER USE EFFICIENCY

10608.64. The department, in consultation with the Agricultural Water Management Council, academic experts, and other stakeholders, shall develop a methodology for quantifying the efficiency of agricultural water use. Alternatives to be assessed shall include, but not be limited to, determination of efficiency levels based on crop type or irrigation system distribution uniformity. On or before December 31, 2011, the department shall report to the Legislature on a proposed methodology and a plan for implementation. The plan shall include the estimated implementation costs and the types of data needed to support the methodology. Nothing in this section authorizes the department to implement a methodology established pursuant to this section.

SEC. 2. Section 10631.5 of the Water Code is amended to read:

10631.5. (a) (1) Beginning January 1, 2009, the terms of, and eligibility for, a water management grant or loan made to an urban water supplier and awarded or administered by the department, state board, or California Bay-Delta Authority or its successor agency shall be conditioned on the implementation of the water demand management measures described in Section 10631, as determined by the department pursuant to subdivision (b).

(2) For the purposes of this section, water management grants and loans include funding for programs and projects for surface water or groundwater storage, recycling, desalination, water conservation, water supply reliability, and water supply augmentation. This section does not apply to water management projects funded by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(3) Notwithstanding paragraph (1), the department shall determine that an urban water supplier is eligible for a water management grant or loan even though the supplier is not implementing all of the water demand management measures described in Section 10631, if the urban water supplier has submitted to the department for approval a schedule, financing plan, and budget, to be included in the grant or loan agreement, for implementation of the water demand management measures. The supplier may request grant or loan funds to implement the water demand management measures to the extent the request is consistent with the eligibility requirements applicable to the water management funds.

(4) (A) Notwithstanding paragraph (1), the department shall determine that an urban water supplier is eligible for a water management grant or loan even though the supplier is not implementing all of the water demand management measures described in Section 10631, if an urban water supplier submits to the department for approval documentation demonstrating that a water demand management measure is not locally cost effective. If the department determines that the documentation submitted by the urban water supplier fails to demonstrate that a water demand management measure is not locally cost effective, the department shall notify the urban water supplier and the agency administering the grant or loan program within 120 days that the documentation does not satisfy the requirements for an exemption, and include in that notification a detailed statement to support the determination.

(B) For purposes of this paragraph, “not locally cost effective” means that the present value of the local benefits of implementing a water demand management measure is less than the present value of the local costs of implementing that measure.

(b) (1) The department, in consultation with the state board and the California Bay-Delta Authority or its successor agency, and after soliciting public comment regarding eligibility requirements, shall develop eligibility requirements to implement the requirement of paragraph (1) of subdivision (a). In establishing these eligibility requirements, the department shall do both of the following:

(A) Consider the conservation measures described in the Memorandum of Understanding Regarding Urban Water Conservation in California, and alternative conservation approaches that provide equal or greater water savings.

(B) Recognize the different legal, technical, fiscal, and practical roles and responsibilities of wholesale water suppliers and retail water suppliers.

(2) (A) For the purposes of this section, the department shall determine whether an urban water supplier is implementing all of the water demand management measures described in Section 10631 based on either, or a combination, of the following:

(i) Compliance on an individual basis.

(ii) Compliance on a regional basis. Regional compliance shall require participation in a regional conservation program consisting of two or more urban water suppliers that achieves the level of conservation or water efficiency savings equivalent to the amount of conservation or savings achieved if each of the participating urban water suppliers implemented the water demand management measures. The urban water supplier administering the regional program shall provide participating urban water suppliers and the department with data to demonstrate that the regional program is consistent with this clause. The department shall review the data to determine whether the urban water suppliers in the regional program are meeting the eligibility requirements.

(B) The department may require additional information for any determination pursuant to this section.

(3) The department shall not deny eligibility to an urban water supplier in compliance with the requirements of this section that is participating in a multiagency water project, or an integrated regional water management plan, developed pursuant to Section 75026 of the Public Resources Code, solely on the basis that one or more of the agencies participating in the project or plan is not implementing all of the water demand management measures described in Section 10631.

(c) In establishing guidelines pursuant to the specific funding authorization for any water management grant or loan program subject to this section, the agency administering the grant or loan program shall include in the guidelines the eligibility requirements developed by the department pursuant to subdivision (b).

(d) Upon receipt of a water management grant or loan application by an agency administering a grant and loan program subject to this section, the agency shall request an eligibility determination from the department with respect to the requirements of this section. The department shall respond to the request within 60 days of the request.

(e) The urban water supplier may submit to the department copies of its annual reports and other relevant documents to assist the department in determining whether the urban water supplier is implementing or scheduling the implementation of water demand management activities. In addition, for urban water suppliers that are signatories to the Memorandum of Understanding Regarding Urban Water Conservation in California and submit biennial reports to the California Urban Water Conservation Council in accordance with the memorandum, the department may use these reports to assist in tracking the implementation of water demand management measures.

(f) This section shall remain in effect only until July 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2016, deletes or extends that date.

SEC. 3. Part 2.8 (commencing with Section 10800) of Division 6 of the Water Code is repealed.

SEC. 4. Part 2.8 (commencing with Section 10800) is added to Division 6 of the Water Code, to read:

PART 2.8. AGRICULTURAL WATER MANAGEMENT PLANNING

CHAPTER 1. GENERAL DECLARATIONS AND POLICY

10800. This part shall be known and may be cited as the Agricultural Water Management Planning Act.

10801. The Legislature finds and declares all of the following:

- (a) The waters of the state are a limited and renewable resource.
- (b) The California Constitution requires that water in the state be used in a reasonable and beneficial manner.
- (c) Urban water districts are required to adopt water management plans.

(d) The conservation of agricultural water supplies is of great statewide concern.

(e) There is a great amount of reuse of delivered water, both inside and outside the water service areas.

(f) Significant noncrop beneficial uses are associated with agricultural water use, including streamflows and wildlife habitat.

(g) Significant opportunities exist in some areas, through improved irrigation water management, to conserve water or to reduce the quantity of highly saline or toxic drainage water.

(h) Changes in water management practices should be carefully planned and implemented to minimize adverse effects on other beneficial uses currently being served.

(i) Agricultural water suppliers that receive water from the federal Central Valley Project are required by federal law to prepare and implement water conservation plans.

(j) Agricultural water users applying for a permit to appropriate water from the board are required to prepare and implement water conservation plans.

10802. The Legislature finds and declares that all of the following are the policies of the state:

(a) The conservation of water shall be pursued actively to protect both the people of the state and the state's water resources.

(b) The conservation of agricultural water supplies shall be an important criterion in public decisions with regard to water.

(c) Agricultural water suppliers shall be required to prepare water management plans to achieve conservation of water.

CHAPTER 2. DEFINITIONS

10810. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this part.

10811. "Agricultural water management plan" or "plan" means an agricultural water management plan prepared pursuant to this part.

10812. "Agricultural water supplier" has the same meaning as defined in Section 10608.12.

10813. "Customer" means a purchaser of water from a water supplier who uses water for agricultural purposes.

10814. "Person" means any individual, firm, association, organization, partnership, business, trust, corporation, company, public agency, or any agency of that entity.

10815. "Public agency" means any city, county, city and county, special district, or other public entity.

10816. "Urban water supplier" has the same meaning as set forth in Section 10617.

10817. “Water conservation” means the efficient management of water resources for beneficial uses, preventing waste, or accomplishing additional benefits with the same amount of water.

CHAPTER 3. AGRICULTURAL WATER MANAGEMENT PLANS

Article 1. General Provisions

10820. (a) An agricultural water supplier shall prepare and adopt an agricultural water management plan in the manner set forth in this chapter on or before December 31, 2012, and shall update that plan on December 31, 2015, and on or before December 31 every five years thereafter.

(b) Every supplier that becomes an agricultural water supplier after December 31, 2012, shall prepare and adopt an agricultural water management plan within one year after the date it has become an agricultural water supplier.

(c) A water supplier that indirectly provides water to customers for agricultural purposes shall not prepare a plan pursuant to this part without the consent of each agricultural water supplier that directly provides that water to its customers.

10821. (a) An agricultural water supplier required to prepare a plan pursuant to this part shall notify each city or county within which the supplier provides water supplies that the agricultural water supplier will be preparing the plan or reviewing the plan and considering amendments or changes to the plan. The agricultural water supplier may consult with, and obtain comments from, each city or county that receives notice pursuant to this subdivision.

(b) The amendments to, or changes in, the plan shall be adopted and submitted in the manner set forth in Article 3 (commencing with Section 10840).

Article 2. Contents of Plans

10825. (a) It is the intent of the Legislature in enacting this part to allow levels of water management planning commensurate with the numbers of customers served and the volume of water supplied.

(b) This part does not require the implementation of water conservation programs or practices that are not locally cost effective.

10826. An agricultural water management plan shall be adopted in accordance with this chapter. The plan shall do all of the following:

(a) Describe the agricultural water supplier and the service area, including all of the following:

- (1) Size of the service area.
- (2) Location of the service area and its water management facilities.
- (3) Terrain and soils.
- (4) Climate.

- (5) Operating rules and regulations.
- (6) Water delivery measurements or calculations.
- (7) Water rate schedules and billing.
- (8) Water shortage allocation policies.
- (b) Describe the quantity and quality of water resources of the agricultural water supplier, including all of the following:
 - (1) Surface water supply.
 - (2) Groundwater supply.
 - (3) Other water supplies.
 - (4) Source water quality monitoring practices.
 - (5) Water uses within the agricultural water supplier's service area, including all of the following:
 - (A) Agricultural.
 - (B) Environmental.
 - (C) Recreational.
 - (D) Municipal and industrial.
 - (E) Groundwater recharge.
 - (F) Transfers and exchanges.
 - (G) Other water uses.
 - (6) Drainage from the water supplier's service area.
 - (7) Water accounting, including all of the following:
 - (A) Quantifying the water supplier's water supplies.
 - (B) Tabulating water uses.
 - (C) Overall water budget.
 - (8) Water supply reliability.
 - (c) Include an analysis, based on available information, of the effect of climate change on future water supplies.
 - (d) Describe previous water management activities.
 - (e) Include in the plan the water use efficiency information required pursuant to Section 10608.48.

10827. Agricultural water suppliers that are members of the Agricultural Water Management Council, and that submit water management plans to that council in accordance with the "Memorandum of Understanding Regarding Efficient Water Management Practices By Agricultural Water Suppliers In California," dated January 1, 1999, may submit the water management plans identifying water demand management measures currently being implemented, or scheduled for implementation, to satisfy the requirements of Section 10826.

10828. (a) Agricultural water suppliers that are required to submit water conservation plans to the United States Bureau of Reclamation pursuant to either the Central Valley Project Improvement Act (Public Law 102-575) or the Reclamation Reform Act of 1982, or both, may submit those water conservation plans to satisfy the requirements of Section 10826, if both of the following apply:

- (1) The agricultural water supplier has adopted and submitted the water conservation plan to the United States Bureau of Reclamation within the previous four years.

(2) The United States Bureau of Reclamation has accepted the water conservation plan as adequate.

(b) This part does not require agricultural water suppliers that are required to submit water conservation plans to the United States Bureau of Reclamation pursuant to either the Central Valley Project Improvement Act (Public Law 102-575) or the Reclamation Reform Act of 1982, or both, to prepare and adopt water conservation plans according to a schedule that is different from that required by the United States Bureau of Reclamation.

10829. An agricultural water supplier may satisfy the requirements of this part by adopting an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) or by participation in areawide, regional, watershed, or basinwide water management planning if those plans meet or exceed the requirements of this part.

Article 3. Adoption and Implementation of Plans

10840. Every agricultural water supplier shall prepare its plan pursuant to Article 2 (commencing with Section 10825).

10841. Prior to adopting a plan, the agricultural water supplier shall make the proposed plan available for public inspection, and shall hold a public hearing on the plan. Prior to the hearing, notice of the time and place of hearing shall be published within the jurisdiction of the publicly owned agricultural water supplier pursuant to Section 6066 of the Government Code. A privately owned agricultural water supplier shall provide an equivalent notice within its service area and shall provide a reasonably equivalent opportunity that would otherwise be afforded through a public hearing process for interested parties to provide input on the plan. After the hearing, the plan shall be adopted as prepared or as modified during or after the hearing.

10842. An agricultural water supplier shall implement the plan adopted pursuant to this chapter in accordance with the schedule set forth in its plan, as determined by the governing body of the agricultural water supplier.

10843. (a) An agricultural water supplier shall submit to the entities identified in subdivision (b) a copy of its plan no later than 30 days after the adoption of the plan. Copies of amendments or changes to the plans shall be submitted to the entities identified in subdivision (b) within 30 days after the adoption of the amendments or changes.

(b) An agricultural water supplier shall submit a copy of its plan and amendments or changes to the plan to each of the following entities:

- (1) The department.
- (2) Any city, county, or city and county within which the agricultural water supplier provides water supplies.
- (3) Any groundwater management entity within which jurisdiction the agricultural water supplier extracts or provides water supplies.
- (4) Any urban water supplier within which jurisdiction the agricultural water supplier provides water supplies.

(5) Any city or county library within which jurisdiction the agricultural water supplier provides water supplies.

(6) The California State Library.

(7) Any local agency formation commission serving a county within which the agricultural water supplier provides water supplies.

10844. (a) Not later than 30 days after the date of adopting its plan, the agricultural water supplier shall make the plan available for public review on the agricultural water supplier's Internet Web site.

(b) An agricultural water supplier that does not have an Internet Web site shall submit to the department, not later than 30 days after the date of adopting its plan, a copy of the adopted plan in an electronic format. The department shall make the plan available for public review on the department's Internet Web site.

10845. (a) The department shall prepare and submit to the Legislature, on or before December 31, 2013, and thereafter in the years ending in six and years ending in one, a report summarizing the status of the plans adopted pursuant to this part.

(b) The report prepared by the department shall identify the outstanding elements of any plan adopted pursuant to this part. The report shall include an evaluation of the effectiveness of this part in promoting efficient agricultural water management practices and recommendations relating to proposed changes to this part, as appropriate.

(c) The department shall provide a copy of the report to each agricultural water supplier that has submitted its plan to the department. The department shall also prepare reports and provide data for any legislative hearing designed to consider the effectiveness of plans submitted pursuant to this part.

(d) This section does not authorize the department, in preparing the report, to approve, disapprove, or critique individual plans submitted pursuant to this part.

CHAPTER 4. MISCELLANEOUS PROVISIONS

10850. (a) Any action or proceeding to attack, review, set aside, void, or annul the acts or decisions of an agricultural water supplier on the grounds of noncompliance with this part shall be commenced as follows:

(1) An action or proceeding alleging failure to adopt a plan shall be commenced within 18 months after that adoption is required by this part.

(2) Any action or proceeding alleging that a plan, or action taken pursuant to the plan, does not comply with this part shall be commenced within 120 days after submitting the plan or amendments to the plan to entities in accordance with Section 10844 or the taking of that action.

(b) In an action or proceeding to attack, review, set aside, void, or annul a plan, or an action taken pursuant to the plan by an agricultural water supplier, on the grounds of noncompliance with this part, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse

of discretion is established if the agricultural water supplier has not proceeded in a manner required by law, or if the action by the agricultural water supplier is not supported by substantial evidence.

10851. The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to the preparation and adoption of plans pursuant to this part. This part does not exempt projects for implementation of the plan or for expanded or additional water supplies from the California Environmental Quality Act.

10852. An agricultural water supplier is not eligible for a water grant or loan awarded or administered by the state unless the supplier complies with this part.

10853. No agricultural water supplier that provides water to less than 25,000 irrigated acres, excluding recycled water, shall be required to implement the requirements of this part or Part 2.55 (commencing with Section 10608) unless sufficient funding has specifically been provided to that water supplier for these purposes.

SEC. 5. This act shall take effect only if Senate Bill 1 and Senate Bill 6 of the 2009–10 Seventh Extraordinary Session of the Legislature are enacted and become effective.

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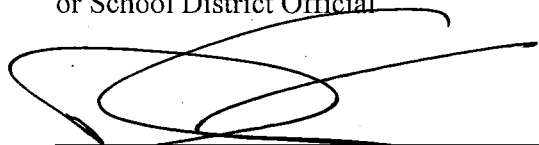
8. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the test claim submission.**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

DUSTIN C. COOPER

Print or Type Name of Authorized Local Agency
or School District Official



Signature of Authorized Local Agency or
School District Official

GENERAL COUNSEL

Print or Type Title

6-29-11

Date

** If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*