



March 30, 2018

Mr. Kevin Hunt
Central Basin Municipal Water District
6252 Telegraph Road
Commerce, CA 90040

Mr. Justyn Howard
Department of Finance
915 L Street
Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

RE: Notice of Test Claim Filing, Mootness of Appeal of Executive Director's Decision, Schedule for Comments, Request for Evidence of Proceeds of Taxes, and Notice of Tentative Hearing Date

Central Basin Municipal Water District Governance Reform, 17-TC-02
Statutes 2016, Chapter 401 (AB 1794)
Central Basin Municipal Water District, Claimant

Dear Mr. Hunt and Mr. Howard:

On September 20, 2017, the Central Basin Municipal Water District filed a Test Claim on the above-captioned matter. Upon review, the Commission on State Mandates (Commission) staff found that the Test Claim was incomplete and on October 6, 2017, notified the claimant of the problems with the filing.

On November 6, 2017, the claimant submitted documents intended to cure the Test Claim. Upon initial legal review,¹ Commission staff was unable to determine if the Central Basin Municipal Water District is eligible to file a test claim with the Commission and on November 29, 2017, notified the claimant of the problems with the filing. Specifically, the claimant does not appear to be an eligible claimant since it is not subject to the tax and spend limitations of article XIII of the California Constitution, it does not collect or receive property tax, and there is no evidence that it collects or receives any other kind of taxes or has adopted an appropriations limit as is required by law for local governments subject to the spending limit.

On December 21, 2017, the claimant filed additional documents intended to cure the Test Claim. Upon additional legal review, Commission staff found that the additional documents only show that fees (but not taxes) are collected on the property tax bill on the claimant's behalf and that this Test Claim remains incomplete. Specifically, staff has determined that the Central Basin Municipal Water District does not receive the proceeds of taxes, is not subject to the tax and spend limitations of article XIII B of the California Constitution, and is therefore ineligible to seek reimbursement for costs alleged to be mandated by the state under article XIII B, section 6.

Mootness of Appeal of Executive Director's Decision

On March 27, 2018, the claimant filed an Appeal of the Executive Director's Decision. Because the same issue, with regard to eligibility, is currently pending before the Third District Court of Appeal in *Paradise Irrigation District, et al. v. Commission on State Mandates, Department of Finance, and Department of Water Resources*, Case No. C081929, arising out of a prior

¹ A completeness review of a test claim is not intended as a legal review, and in fact, generally does not go through legal review at all. In this case, a legal opinion was sought during the review of the filing to cure the Test Claim solely on the issue of eligibility.

Commission Decision that was upheld by the trial court (Sacramento County Superior Court, Case No. 34-2015-80002016, *Water Conservation*, 10-TC-12/12-TC-01, adopted December 5, 2014), Commission staff will accept this incomplete filing to present to the Commission for hearing and decision. Therefore, the Test Claim retains the original filing date of September 20, 2017, in accordance with section 1183.1(e) of the Commission's regulations (California Code of Regulations, Title 2).

The eligibility of the Central Basin Municipal Water District to file a Test Claim will be addressed in the analysis of this Test Claim. Since this issue will be decided by the Commission, the Appeal of the Executive Director's Decision is moot. Therefore, the Appeal will not be heard, as all parties, interested parties, and interested persons will have the opportunity to comment both on the Test Claim and the Draft Proposed Decision, and to provide testimony at the hearing.

The Commission is now requesting parties, interested parties, and interested persons to comment on the Test Claim as specified below.

Review of Test Claim

Parties, interested parties, and interested persons receiving this letter are requested to analyze the merits of the Test Claim and to file written comments on or before **April 30, 2018** in accordance with sections 1183.2 and 1181.3 of the Commission's regulations. Oral or written representations of fact offered by any person shall be under oath or affirmation and signed under penalty of perjury by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge, information, or belief. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) If new representations of fact are made, they must be supported with documentary evidence filed with the comments on the Test Claim. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.² Requests for extensions of time to file comments may be filed in accordance with section 1187.9 of the Commission's regulations.

The Sacramento County Superior Court in *Paradise Irrigation District, et al. v. Commission on State Mandates, Department of Finance, and Department of Water Resources*, Third District Court of Appeal, Case No. C081929, Sacramento County Superior Court, Case No. 34-2015-80002016, *Water Conservation* (10-TC-12/12-TC-01, adopted December 5, 2014), found that the Commission properly interpreted the Supreme Court's decision in *County of Fresno v. State* (1991) 53 Cal.3d 482; specifically, that article XIII B, section 6 was designed to protect the tax revenues of local governments, and not the expenses that are recoverable from sources other than taxes.

In 1979, the voters adopted Proposition 4, which added article XIII B to the California Constitution. Proposition 4, among other things, establishes an appropriations limit each fiscal year for each entity of government, which cannot be exceeded (known as the "Gann Limit"). (Cal. Const., art. XIII B, § 1; *Santa Barbara County Taxpayers Assn. v. Bd. of Supervisors*

² Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

(1989) 209 Cal.App.3d 940, 944.) The measure was intended to be a “permanent protection for taxpayers from excessive taxation” and “a reasonable way to provide discipline in tax spending at state and local levels.” (*County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 446.)

In order to ensure that local agencies do not exceed their Gann Limit as a result of State-mandated activities, the voters in Proposition 4 also imposed the subvention requirement for state-mandated new programs or higher levels of service that impose costs mandated by the state. (*Cal. School Boards Assn.*, supra, 19 Cal.App.5th at p. 571.) The purpose of the subvention requirement is to “prevent ‘the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.’” (*Cal. School Boards Assn.* (2018) 19 Cal.App.5th at p. 571 [citing *County of San Diego v. State of Cal.* (1997) 15 Cal.4th 68, 81].)

Please include in your comments on the Test Claim, a discussion of whether or how the district’s Gann-limited local proceeds of taxes are implicated in funding the alleged state mandate in this case. In addition, please note that there is litigation currently pending in the Third District Court of Appeal on the issue of eligibility of special districts which lack taxing authority and do not collect (or have collected on their behalf) proceeds of taxes and have not adopted a Gann Limit to bring a claim before the Commission or file mandate reimbursement claims with the State Controller.

Claimant’s Rebuttal

Written rebuttals to written comments concerning this Test Claim may be filed and served in accordance with section 1181.3 of the Commission’s regulations within 30 days of service of the written comments. (Cal. Code. Regs., tit. 2 § 1183.3.) Oral or written representations of fact offered by any person shall be under oath or affirmation and signed under penalty of perjury by persons who are authorized and competent to do so and must be based on the declarant’s personal knowledge, information or belief. (Cal. Code. Regs., tit. 2 §§ 1183.3 and 1187.5.) If new representations of fact are made, they must be supported with documentary evidence filed with the rebuttal. (Cal. Code. Regs., tit. 2 §§ 1183.3 and 1187.5.) The Commission’s ultimate findings of fact must be supported by substantial evidence in the record.³

Please include in your rebuttal, a discussion of whether or how the district’s *Gann-limited* local proceeds of taxes are implicated in funding the alleged state mandate in this case.

Request for Evidence of Proceeds of Taxes

Please provide evidence of *any* proceeds of taxes collected or collected on behalf of the Central Basin Municipal Water District. The evidence of standby charges⁴ already submitted and included in the Test Claim does not satisfy this requirement because standby charges are fees subject to the provisions of article XIII D, section 6, not assessments subject to the requirements of article XIII D, section 4 and certainly not taxes subject to the Gann Limit and subvention

³ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission’s decision is not supported by substantial evidence in the record.

⁴ Test Claim, pages 286-292 (Response to the Request for Evidence).

requirement of articles XIII A and XIII B of the California Constitution. (See generally *Paland v. Brooktrails Township Community Services District* (2009) 98 Cal.Rptr.3d 66, review denied 218 P.3d 261.) Please also provide evidence of the district's annual appropriations limit. (See California Constitution, Article XIII B and Government Code Sections 7900-7914 for legal requirements with regard to appropriations limits.)

Process for Filing Comments

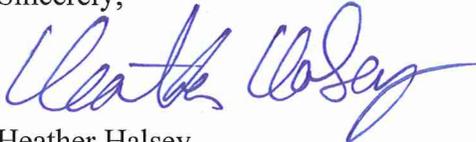
The Commission has prepared a mailing list of parties, interested parties, and interested persons for this Test Claim. The mailing list will be uploaded to the Commission's website and an e-mail notification of its availability will be sent to everyone on the list who has provided an e-mail address. A hard copy will be provided to persons who have not provided an e-mail address and to any person who requests a hard copy. (Cal. Code. Regs., tit. 2 § 1181.4.)

You are advised that if written materials are filed in hard copy, the filing must simultaneously be served on everyone on the mailing list, and be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents on the Commission's website. For instructions on electronic filing, please see the Commission's website at http://www.csm.ca.gov/dropbox_procedures.php. The comments will be posted on the Commission's website and the mailing list will be notified by electronic mail of the posting and the comment period. This procedure will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.3.

Tentative Hearing Date

This Test Claim is tentatively set for hearing on **September 28, 2018**.

Sincerely,



Heather Halsey
Executive Director

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

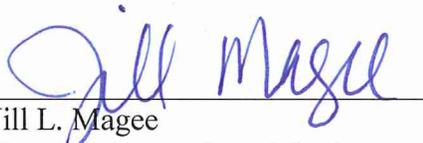
On March 30, 2018, I served the:

- **Notice of Test Claim Filing, Mootness of Appeal of Executive Director's Decision, Schedule for Comments, Request for Evidence of Proceeds of Taxes, and Notice of Tentative Hearing Date issued March 30, 2018**
- **Appeal of Executive Director's Decision filed March 27, 2018**
- **Test Claim filed by the Central Basin Municipal Water District on September 20, 2017**

Central Basin Municipal Water District Governance Reform, 17-TC-02
Statutes 2016, Chapter 401 (AB 1794)
Central Basin Municipal Water District, Claimant

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 30, 2018 at Sacramento, California.



Jill L. Magee
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/28/18

Claim Number: 17-TC-02

Matter: Central Basin Municipal Water District Governance Reform

Claimant: Central Basin Municipal Water District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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