



May 2, 2018

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Ms. Eileen Sobeck
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Mr. Bruce Wolfe
San Francisco Bay Regional
Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

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

**RE: Notice of Complete Test Claim, Schedule for Comments, Request for
Administrative Record, and Notice of Tentative Hearing Date**

*Waste Discharge Requirements and Water Quality Certification for: Santa Clara
Valley Water District and U.S. Army Corps of Engineers, Upper Berryessa Creek
Flood Risk Management Project, 17-TC-04*

San Francisco Bay Regional Water Quality Control Board (SFRWQCB) Order No.
R2-2017-0014, Provision B. 19, effective April 12, 2017
Santa Clara Valley Water District, Claimant

Dear Ms. Camacho, Mr. Howard, Mr. Prows, Ms. Sobeck, and Mr. Wolfe:

On April 12, 2018, the Santa Clara Valley Water District filed the above-captioned Test Claim. Upon review, Commission staff finds that this Test Claim is complete.

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 **June 1, 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.¹ Requests for extensions of time to file comments may be filed in accordance with section 1187.9 of the Commission's regulations.

¹ 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 J:\MANDATES\2017\TC\17-TC-04 WDRs and Water Quality Certification, Upper Berryessa Creek Flood Risk Management Project\Correspondence\Complete Letter.docx

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.²

Request for Administrative Record

In addition, this letter is a request that the San Francisco Bay Regional Water Quality Control Board and the State Water Resources Control Board (as applicable) provide copies of:

- a) The official administrative record of the California State Water Quality Control Board, San Francisco Bay Region permit order no. R2-2017-0014; and
- b) The official administrative record of the California State Water Resources Control Board permit order no. R2-2017-0014.

Specifically, the Commission requests the record that was before the board(s) when they considered or adopted permit order no. R2-2017-0014 and on which they based their decision with regard to the permit requirements.

Please provide these documents as soon as possible but not later than **June 1, 2018**.

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

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.

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.

Ms. Camacho, Mr. Howard, Mr. Prows, Ms. Sobeck, and Mr. Wolfe

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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 **July 26, 2019**.

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 May 2, 2018, I served the:

- **Notice of Complete Test Claim, Schedule for Comments, Request for Administrative Record, and Notice of Tentative Hearing Date issued May 2, 2018**
- **Test Claim filed by the Santa Clara Valley Water District on April 12, 2018**

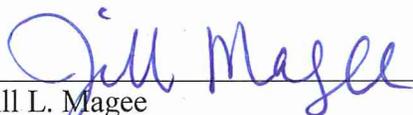
Waste Discharge Requirements and Water Quality Certification for: Santa Clara Valley Water District and U.S. Army Corps of Engineers, Upper Berryessa Creek Flood Risk Management Project, 17-TC-04

San Francisco Bay Regional Water Quality Control Board (SFRWQCB) Order No. R2-2017-0014, Provision B. 19, effective April 12, 2017

Santa Clara Valley 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 May 2, 2018 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/2/18

Claim Number: 17-TC-04

Matter: Waste Discharge Requirements and Water Quality Certification for: Santa Clara Valley Water District and U.S. Army Corps of Engineers, Upper Berryessa Creek Flood Risk Management Project

Claimant: Santa Clara Valley 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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