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December 7, 2018

VIA COMMISSION'S DROPBOX

RECEIVED
December 10, 2018
**Commission on
State Mandates**

Heather Halsey
Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

Re: Request for Consolidation of Test Claim 17-TC-28 (City of Rialto) on Water Code Section 13383 Phase I MS4 Trash Orders Issued by the Santa Ana Regional Water Quality Control Board, Effective June 2, 2017, with Test Claims 17-TC-08 through 17-TC-25.

Dear Ms. Halsey:

We are the claim representatives for the City of Rialto ("City") regarding Test Claim No. 17-TC-28 (City of Rialto) in the above referenced proceedings (Test Claims). We are writing to request that pursuant to your authority as Executive Director under California Code of Regulations § 1183.5 you consolidate the City's Test Claim with all of the test claims that have been filed on the Water Code Section 13383 Phase I MS4 Trash Order Issued by the Santa Ana Regional Water Quality Control Board, Effective June 2, 2017 (Order), including, but not limited to, test claims 17-TC-08 through 17-TC-25.

As set forth in the City's test claim, the State Water Resources Control Board (State Water Board) adopted an *Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (Trash Amendments). Pursuant to the Trash Amendments, the State Water Board directed the nine regional water boards to each issue an order pursuant to Water Code section 13267 or 13383 mandating municipal separate storm sewer (MS4s) permittees to take certain unfunded planning and implementation actions towards compliance with the Trash Amendments. On June 2, 2017, the Santa Ana Regional Water Quality Control Board (Santa Ana Regional Board) issued individual orders to the MS4s throughout its jurisdictional area.

In reviewing the individual Water Code § 13383 orders issued by the Santa Ana Regional Board, and the individual test claims filed by the MS4s on those orders, the Water Code § 13383 orders are identical as are the test claims that have been filed with the Commission. As a result, there are common and identical questions of law and fact among the test claims as to whether the Santa Ana Regional Board's orders constitute reimbursable state mandates.

Section 1183.5(a) allows the Executive Director to “consolidate part or all of any test claim with another test claim..., if necessary to ensure the complete, fair or timely consideration of any test claim.” The Cities assert that consolidation would promote consistent and timely decision-making on the test claims, thereby ensuring fairness to all Test Claimants. In addition, consolidation would generate efficiencies that would not be available were the test claims to be addressed in eighteen or more separate proceedings. For example, consolidation would allow the test claimants and interested parties to coordinate on claim management and briefing efforts, avoiding the submission of duplicative documents, such as comments and rebuttal comments. Although they cannot speak for these agencies, on information and belief, the Cities understand that the State Water Board, Department of Finance and Santa Ana Regional Board might be amenable to consolidation, as might Commission staff.

In addition, section 1183.4 states that a test claimant may file a formal motion for consolidation within 30 days of the Commission’s completeness determination. Pending consideration of the City’s request for the Executive Director to consolidate the test claims under section 1183.5, we ask that you kindly extend the time limit under section 1183.4 by 30 days, so that the Cities can file a formal motion if needed. The City is open to your directing it to file a formal motion in lieu of this informal request should the Commission determine this is required.

If you have questions regarding this request, please do not hesitate to contact the undersigned. Thank you in advance for your consideration.

I declare under penalty of perjury that the foregoing, signed on December 10, 2018, is true and correct to the best of my personal knowledge, information or belief.

DATED: December 10, 2018

FRED GALANTE

By: 

FRED GALANTE

City Attorney for City of Rialto,
Claimant

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 December 10, 2018, I served the:

- **Claimant's Request for Consolidation of Test Claims filed December 10, 2018**

*Water Code Section 13383(a) Phase I MS4 Trash Order Issued to City of Rialto,
Santa Ana Regional Water Quality Control Board, Effective June 2, 2017,
17-TC-28
City of Rialto, 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 December 10, 2018 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 12/7/18

Claim Number: 17-TC-28

Matter: Water Code Section 13383(a) Phase I MS4 Trash Order Issued to City of Rialto, Santa Ana Regional Water Quality Control Board, Effective June 2, 2017

Claimant: City of Rialto

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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