



December 14, 2017

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Mr. Samuel Unger  
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Quality Control Board  
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*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**RE: Notice of Complete Test Claim, Removal from Inactive Status, Consolidation with 13-TC-02, Renaming of Matter, Schedule for Comments, and Tentative Hearing Date**

*Los Angeles Region Water Permit – Cities of Los Angeles County, 13-TC-01  
California Regional Water Quality Control Board, Los Angeles Region,  
Order No. R4-2012-0175*

*Cities of Agoura Hills, Bellflower, Beverly Hills, Carson, Cerritos, Commerce, Downey, Huntington Park, Lakewood, Manhattan Beach, Norwalk, Pico Rivera, Rancho Palos Verdes, Redondo Beach, San Marino, Santa Clarita, Santa Fe Springs, Signal Hill, South El Monte, Vernon, Westlake Village, and Whittier, Claimants*

AND

*California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2012-0175, 13-TC-02*

*County of Los Angeles and Los Angeles County Flood Control District, Claimants*

Dear Messrs. Gest, Howard, Lauffer, and Unger:

On June 30, 2014, the Commission on State Mandates (Commission) received the above-named Test Claim alleging reimbursable mandated activities arising from the NPDES permit No. CAS004001, Order R4-2012-0175 (Order), adopted by the Los Angeles Regional Water Quality Control Board (regional board).

Although the Test Claim was deemed complete on July 10, 2014, an initial review of the filing by legal staff revealed that it was incomplete because it: (1) was filed beyond the statute of limitation because it was filed more than 12 months beyond the effective date of the Order; (2) does not meet the requirements in Title 2, California Code of Regulations, section 1183.1(a) specifying personnel authorized to file a test claim on behalf of a local agency; and (3) was missing a detailed description of increased costs and a statewide estimate of costs as required by Government Code section 17553.<sup>1</sup>

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<sup>1</sup> A completeness review of a test claim is not intended as a legal review, and in fact, does not go through legal review.

On August 10, 2017, August 21, 2017, November 20, 2017, and December 4, 2017, as requested, the claimants filed revised test claim forms, narrative statement, declarations, and supporting documents to replace the original test claim forms, narrative statement, declarations, and supporting documents filed with the Commission. On August 14, 2017, the claimants filed a revised declaration from the city of Huntington Park that was subsequently superseded by the revised declaration filed on November 20, 2017. Commission staff has replaced the revised pages of the Test Claim and upon review, finds it complete and that it retains the original filing date of June 30, 2014 in accordance with section 1183.1(f) of the Commission's regulations.

### **Removal from Inactive Status**

On July 17, 2014, claimant filed a request to place this matter on inactive status, which was granted. However, now that the Supreme Court has filed its decision in *Department of Finance v. Commission on State Mandates* (1 Cal.5th 749) and the test claim filing has been completed, this matter is removed from inactive status.

### **Consolidation with 13-TC-02**

The above-captioned Test Claims are based on the same permit/executive order, share many of the same alleged mandated activities and costs, and contain numerous common issues and allegations. In light of these similarities and to ensure complete, fair, and timely consideration, these claims are now being consolidated for analysis and hearing pursuant to the executive director's authority under section 1183.5 of the Commission's regulations. Unless an objection is filed, this action will be effective 10 days from the service of this notice.

### **Renaming of Matter**

Currently, 13-TC-01 and 13-TC-02 are known as "*Los Angeles Region Water Permit – Cities of Los Angeles County*" and "*California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2012-0175*" respectively. However, Commission staff is renaming this matter for ease of tracking and consistent with other stormwater NPDES permit test claims. This consolidated matter will now be designated *California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2012-0175*, 13-TC-01 and 13-TC-02. Please use this designation in all future correspondence and in reference to this matter.

### **Request for Comments on the Test Claim**

Parties, interested parties, and interested persons receiving this letter are requested to analyze the merits of the consolidated Test Claims and to file written comments on or before **January 29, 2018** in accordance with sections 1183.2 and 1187.5 of the Commission's regulations. This comment period is significantly longer than the statutorily provided 30-day comment period to align it with an extension already granted for comments on 13-TC-02.

Comments on 13-TC-01 and 13-TC-02 should be combined in the interests of efficiency, since they address the same permit, many of the same alleged state-mandated requirements, and share the same administrative record (which was filed on November 30, 2017, see <https://www.csm.ca.gov/matters/13-TC-01.php>).

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.) The Commission's ultimate findings of fact must be supported by



substantial evidence in the record.<sup>2</sup> Please address the mandate issues raised in the Test Claim and specifically identify any state or federal funding or local fee authority that has been appropriated or is available to fund the costs alleged to be mandated by the state.

On August 29, 2016, the California Supreme Court filed its modified opinion in *Department of Finance v. Commission on State Mandates* (County of Los Angeles) (2016) 1 Cal.5th 749. Please include in your comments on the Test Claim, briefing regarding how that decision should apply with regard to activities that the boards assert are required to meet the maximum extent practicable (MEP) requirement of the federal Clean Water Act. Please include a discussion of how the decision applies with regard to the specific activities alleged to impose a state mandate in this case.

### **Claimants' Rebuttal**

Claimants may file and serve rebuttals to written comments concerning this Test Claim 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 written representations of fact are made, they must be supported with documentary evidence submitted 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.<sup>3</sup>

### **Filing Written Materials**

All written representations of fact made to the Commission are required to be supported by documentary or testimonial evidence submitted under penalty of perjury. (Cal. Code Regs., tit. 2, 1187.5.)

The Commission's regulations require that written materials filed with the Commission be simultaneously served on all parties, interested parties, and interested persons on the mailing list, and accompanied by a proof of service. (Cal. Code Regs., tit. 2, 1181.3.) However, this requirement may be satisfied by electronically filing your documents via the Commission's e-filing system. Please see [http://www.csm.ca.gov/dropbox\\_procedures.php](http://www.csm.ca.gov/dropbox_procedures.php) on the Commission's website. The written material will be posted on the Commission's website and the mailing list will be notified by electronic mail of the posting. This procedure will satisfy all the service requirements pursuant to section 1181.3 of the Commission's regulations.

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<sup>2</sup> 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.

<sup>3</sup> 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.

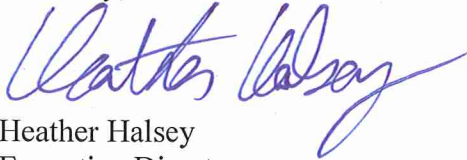
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If you would like to request an extension of time, please refer to section 1187.9(a) of the Commission's regulations.

**Tentative Hearing Date**

These consolidated Test Claims are now tentatively set for hearing on **November 30, 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 December 14, 2017, I served the:

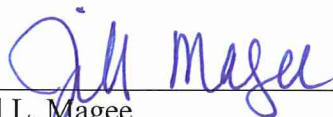
- **Notice of Complete Test Claim, Removal from Inactive Status, Consolidation with 13-TC-02, Renaming of Matter, Schedule for Comments, and Tentative Hearing Date issued December 14, 2017**
- **City of Vernon Ordinance Regarding City Administrator's Duties filed December 4, 2017**
- **Claimants' Response to Second Notice of Incomplete Joint Test Claim filed November 20, 2017**
- **City of Downey Revised Test Claim Form filed August 21, 2017**
- **Test Claim filed by Cities of Agoura Hills, Bellflower, Beverly Hills, Carson, Cerritos, Commerce, Downey, Huntington Park, Lakewood, Manhattan Beach, Norwalk, Pico Rivera, Rancho Palos Verdes, Redondo Beach, San Marino, Santa Clarita, Santa Fe Springs, Signal Hill, South El Monte, Vernon, Westlake Village, and Whittier (Claimants) on June 30, 2014, revised on August 10, 2017, August 21, 2017, November 20, 2017, and December 4, 2017**

*California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2012-0175, 13-TC-01 and 13-TC-02*

Cities of Agoura Hills, Bellflower, Beverly Hills, Carson, Cerritos, Commerce, Downey, Huntington Park, Lakewood, Manhattan Beach, Norwalk, Pico Rivera, Rancho Palos Verdes, Redondo Beach, San Marino, Santa Clarita, Santa Fe Springs, Signal Hill, South El Monte, Vernon, Westlake Village, and Whittier, County of Los Angeles, and Los Angeles County Flood Control District, Claimants

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on December 14, 2017 at Sacramento, California.



\_\_\_\_\_  
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Commission on State Mandates  
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(916) 323-3562

# COMMISSION ON STATE MANDATES

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City of Lakewood  
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City of Norwalk  
City of Pico Rivera  
City of Rancho Palos Verdes  
City of Redondo Beach  
City of San Marino  
City of Santa Clarita  
City of Santa Fe Springs  
City of Signal Hill  
City of South El Monte  
City of Vernon  
City of Westlake Village  
City of Whittier  
County of Los Angeles  
Los Angeles County Flood Control District

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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

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