Case No. S214855



# IN THE SUPREME COURT

# OF CALIFORNIA

STATE DEPARTMENT OF FINANCE, et al,

Plaintiffs and Respondents,
vs.

COMMISSION ON STATE MANDATES,

Defendant and Respondent;

COUNTY OF LOS ANGELES et al.,

Real Parties in Interest and Appellants.

## REPLY BRIEF OF REAL PARTIES IN INTEREST AND APPELLANTS COUNTY OF LOS ANGELES AND CITIES OF BELLFLOWER, CARSON, COMMERCE, COVINA, DOWNEY AND SIGNAL HILL

California Court of Appeal, Second District, Division One
Case No. B237153
Los Angeles Superior Court Case No. BS130730
Hon. Ann I. Jones, Superior Court Judge

BURHENN & GEST LLP
Howard Gest (SBN 076514)
David W. Burhenn (SBN 105482)
624 South Grand Avenue, Suite 2200
Los Angeles, CA 90017
Telephone: (213) 688-7715
Facsimile: (213) 624-1376
Email: hgest@burhenngest.com

Attorneys for Real Parties in Interest and Appellants County of Los Angeles and Cities of Bellflower, Carson, Commerce, Covina, Downey and Signal Hill

MARK SALADINO
County Counsel
JUDITH A. FRIES (SBN 070897)
Principal Deputy
OFFICE OF LOS ANGELES COUNTY COUNSEL
500 West Temple Street, Room 653
Los Angeles, CA 90012
Telephone: (213) 974-1923
Facsimile: (213) 687-7337
Email: jfries@counsel.lacounty.gov

Attorneys for Real Party in Interest and Appellant County of Los Angeles

Case No. S214855

# IN THE SUPREME COURT

# OF CALIFORNIA

---

STATE DEPARTMENT OF FINANCE, et al,

Plaintiffs and Respondents,
vs.

COMMISSION ON STATE MANDATES,

Defendant and Respondent;

COUNTY OF LOS ANGELES et al.,

Real Parties in Interest and Appellants.

---

## REPLY BRIEF OF REAL PARTIES IN INTEREST AND APPELLANTS COUNTY OF LOS ANGELES AND CITIES OF BELLFLOWER, CARSON, COMMERCE, COVINA, DOWNEY AND SIGNAL HILL

---

California Court of Appeal, Second District, Division One
Case No. B237153
Los Angeles Superior Court Case No. BS130730
Hon. Ann I. Jones, Superior Court Judge

---


BURHENN & GEST LLP
Howard Gest (SBN 076514)
David W. Burhenn (SBN 105482)
624 South Grand Avenue, Suite 2200
Los Angeles, CA 90017
Telephone: (213) 688-7715
Facsimile: (213) 624-1376
Email: hgest@burhenngest.com

Attorneys for Real Parties in Interest and Appellants County of Los Angeles and Cities of Bellflower, Carson, Commerce, Covina, Downey and Signal Hill

MARK SALADINO
County Counsel
JUDITH A. FRIES (SBN 070897)
Principal Deputy
OFFICE OF LOS ANGELES COUNTY COUNSEL
500 West Temple Street, Room 653
Los Angeles, CA 90012
Telephone: (213) 974-1923
Facsimile: (213) 687-7337
Email: jfries@counsel.lacounty.gov

Attorneys for Real Party in Interest and Appellant County of Los Angeles

## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

**PAGE**

### Cases

**Constitution, Statutes and Regulations**

## I. INTRODUCTION

Respondents' arguments in this case essentially amount to a single concept: "trust us." But there is a fundamental disconnect between respondents' arguments and the very purpose of the Commission on State Mandates — to prevent state agencies from imposing programs on local governments without also providing a subvention of funds. Respondents effectively are asking this Court to ignore decades of jurisprudence concerning the exclusive authority of the Commission to determine the existence of a state mandate and to carve out special rules for the State Water Resources Control Board and its regional boards.

According to respondents California Department of Finance, State Water Resources Control Board ("State Board") and Los Angeles Regional Water Quality Control Board ("Regional Board") (collectively, the "state agencies"), there was essentially nothing for the Commission to decide in this case. They contend that, by reason of the Clean Water Act's ("CWA") general standard that efforts be made to reduce pollutants in stormwater to the "maximum extent practicable" ("MEP"), virtually any requirement the State Board or regional boards may impose is necessarily a federal mandate, and local entities must bear the cost of such requirement without a subvention of funds. The Commission's role, they insist, is to do nothing more than to accept a regional board's own determination that a permit requirement has been imposed in furtherance of a federal, and not a state, mandate.

The state agencies' position is flatly inconsistent with the purpose of the Commission and uniform case law from both this Court and the courts of appeal concerning the Commission's independent role in determining whether a particular requirement imposed by a state agency constitutes a

state or federal mandate. Indeed, the state agencies would have this Court entirely sidestep one of the key issues on which review has been granted — how the Commission is to determine the nature and extent of a general federal statutory standard when the federal statute does not define that scope. The state agencies' position is essentially that the Commission should do nothing — a general federal standard is simply that, and that vast umbrella of generality effectively immunizes any mandate from a claim for a subvention of funds.

The Commission must employ, and indeed has repeatedly employed, basic principles of statutory interpretation in resolving both the inherently factual questions and inherently mixed questions of fact and law as to whether a particular requirement constitutes a state or federal mandate. Applying those principles here, the Commission found that the requirements imposed on the Cities and County were state, not federal, mandates. That determination is squarely supported by existing authority and the state agencies present no reason why other, special rules should apply. The Commission's determination was correct and should be affirmed.

## II. THE COMMISSION PROPERLY LOOKED TO FEDERAL AUTHORITY TO DEFINE THE SCOPE OF THE FEDERAL MANDATE

### A. When the Regional Board Issues an NPDES Permit, It Does So as a State Agency Pursuant to a State Program

The state agencies do not dispute that the state implements its own NPDES permit program in lieu of the federal program (Answer Brief ("A.B.") at 4). *See* 33 U.S.C. § 1342(b); *State of California v. United States Department of the Navy,* 845 F.2d 222, 225 (9th Cir. 1988). Thus, in

issuing NPDES permits, the Regional Board acts as a state agency, issuing NPDES permits pursuant to a state program.

### B. The Commission Properly Looked to Federal Authority to Define the Scope of the Federal Mandate

The state agencies also do not dispute that a NPDES permit can contain both federal and state requirements and, when the permit contains state requirements, it is subject to state law (A.B. at 4, 14 and 34 n.3). *See e.g. City of Burbank v. State Water Resources Control Board* (2005) 35 Cal. 4th 613, 627-28.

Because an NPDES permit can contain both federal and state requirements, there must be a principled means to distinguish federal and state requirements for the purposes of mandate jurisprudence. The state agencies do not suggest one. Instead, the state agencies argue that a permit provision required by the federal MEP standard is not a state mandate (A.B. at 20).

As the Cities and County stated in their Opening Brief, however, they do not dispute that the MEP standard is a federal requirement (Opening Br. at 26-27). Instead, the issue is how the scope of that requirement is to be defined where, as here, the federal statute does not do so. The state agencies provide no answer to this question. At best, they argue that federal regulations authorize the trash receptacle and inspection obligations at issue here (A.B. at 23-25), although the state agencies criticize the Commission for taking this very approach (*Id.* at 16-17, 28-29.)

The Commission looked to federal authority to determine whether the permit provisions at issue were in fact required by the MEP standard. This approach was correct.

When defining the scope of a federal mandate, the Commission must give effect to the intent of Congress. *Household Credit Servs., Inc. v.*

*Pfennig*, 541 U.S. 232, 239 (2004). Here, Congress specifically delegated to the United States Environmental Protection Agency ("USEPA") the obligation to adopt regulations setting forth the permit application requirements for stormwater discharges. 33 U.S.C. § 1342(p)(4)(A) and (B). Where Congress has explicitly directed an agency to adopt regulations to elucidate specific provisions of a statute, such regulations are to be given controlling weight. *Chevron U.S.A., Inc., v. NRDC, Inc.,* 467 U.S. 837, 843-44 (1984). The Commission thus properly looked first to these regulations to define the scope of the statutory MEP requirement.

To the extent that the regulations do not fully define the scope of federal requirement, the Commission should look to other federal authority. *See Carmel Valley Fire Protection District v. State of California* (1987) 190 Cal.App.3d 521, 543-44 (Board of Control and court looked to letter from federal Occupational Safety and Health Administration as well as federal statute in determining whether state requirement was state or federal mandate).

The Commission did this also. Here the Commission had before it USEPA's MS4 Program Evaluation Guidance manual (AR 3391-3493), other USEPA-issued permits (AR 3891-4190), evidence that the trash receptacle and inspection obligations had not been included in prior permits issued by the Regional Board and approved by USEPA (AR 1540-41, 1552, 1782, 3865), and letters from the USEPA Administrator and a senior regional USEPA administrator, confirming that the state, and not the Cities and County, was obligated to inspect facilities for compliance with state-issued general permits (AR 3878-81).[1]

[1] The Court of Appeal did not look to any federal authority to define MEP. Instead, the court applied a definition created by a state agency, the San Diego Regional Water Quality Control Board, in another permit, as cited in

## III. THE COMMISSION, NOT THE REGIONAL BOARD, HAS JURISDICTION TO DETERMINE IF A PERMIT REQUIREMENT IS A STATE OR FEDERAL MANDATE WITHIN THE MEANING OF ARTICLE XIII B, SECTION 6

### A. The Commission has Exclusive Jurisdiction to Determine if a Reimbursable State Mandate Exists

Instead of setting forth how the Commission should define a federal mandate, the state agencies argue that the Commission should not even perform this function, but should defer to the agency that itself imposed the mandate, here, the Regional Board. This approach ignores the legislative intent underlying Government Code §17500 *et seq.*, would represent an unprecedented departure from this Court's mandate jurisprudence, and would undermine the process put into place by the Legislature to implement article XIII B, section 6 of the California Constitution.

Article XIII B, section 6 was added to the Constitution in 1979 as part of Proposition 4, a larger initiative aimed at limiting state and local spending. *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1580 ("*Hayes*"). Section 6 was included to prevent the state from shifting to local governments the financial responsibility for providing public services in view of the restrictions that had been placed on their taxing and spending powers. *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-36; *Hayes, supra,* 11 Cal.App.4th at 1580. As this Court noted, arguments contained in the voter pamphlet describing Proposition 4 stated that the purpose of the proposition was not only to limit state and local government spending, but also to "not allow the state government to force programs on local governments without the state

---

another court of appeal case, *Building Industry Ass'n. of San Diego County v. State Water Resources Control Board* (2004) 124 Cal.App.4th 866, 876 n.7, 889. (*State Dept. of Finance v. Commission on State Mandates*, Case No. B237153, Slip op. at 31, 34-35.)

paying for them." *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56, *quoting* California Ballot Pamphlet, Special State-Wide Election, November 6, 1979, p. 18. *See also County of San Diego v. State of California* (1997) 15 Cal.4th 68, 80-81.

In 1984, the Legislature enacted Government Code § 17500 *et seq.*, which "provide the sole and exclusive procedure by which a local agency or school district may claim reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution." Govt. Code § 17552. Local agencies or school districts must initiate that process by filing claims with the Commission. Govt. Code § 17551(a). The Commission holds a public hearing on the claim, at which time the Commission determines whether the local agency or school district is entitled to be reimbursed. Govt. Code § 17553.

The Legislature adopted this comprehensive administrative process "because the absence of a uniform procedure had resulted in inconsistent rulings on the existence of state mandates, unnecessary litigation, reimbursement delays, and, apparently, resultant uncertainties in accommodating reimbursement requirements in the budgetary process." *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331. As the Legislature stated in Government Code § 17500:

> The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state-mandated local programs has not provided for the effective determination of the state's responsibilities under Section 6 of Article XIIIB of the California Constitution . . . [I]n order to relieve unnecessary congestion of the judicial system, it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs.
>
> It is the intent of the Legislature in enacting this part to provide for the implementation of Section 6 of Article XIIIB of

> the California Constitution. Further, the Legislature intends that the Commission on State Mandates, as a quasi-judicial body, will act in a deliberative manner in accordance with the requirements of Section 6 of Article XIIIB of the California Constitution.

Since the adoption of Government Code § 17500 *et seq.*, the courts have consistently held that the Commission has exclusive jurisdiction to determine if a state mandate exists in the first instance. For example, in *Lucia Mar,* this Court, after finding that Education Code § 59300's shifting of costs onto local school districts to fund special education constituted a "new program," 44 Cal.3d at 835, declined to go further and decide whether this shifting constituted a reimbursable mandate, holding that "[t]he issue is for the commission to determine, as it is charged by section 17551 of the Government Code with the duty to decide in the first instance whether a local agency is entitled to reimbursement . . . ." *Id.* at 837.

In *Kinlaw,* this Court upheld a superior court's dismissal of a taxpayer action seeking to require the state to reimburse the County of Alameda for the cost of providing health care services to medically indigent adults pursuant to article XIII B, section 6. 54 Cal. 3d at 328-29. The Court held that filing a test claim with the Commission was the exclusive procedure for resolving mandate claims. *Id.* at 333.

In *Grossmont Union High School v. State Dept. of Education* (2008) 169 Cal. App. 4th 869, the court of appeal affirmed a demurrer to a complaint in which the school district, without having filed a test claim with the Commission, sought relief from or payment of the costs of mental health services for special education students that had been ordered by the state. *Id.* at 879-82. The court held that the mandate may be a "mixed" federal and state mandate, *id.* at 875, and that the Commission had exclusive jurisdiction to resolve the issue. *Id.* at 883-85. *See also San*

*Joaquin River Exchange Contractors Water Authority v. State Water Resources Control Board* (2010) 183 Cal. App. 4th 1110, 1135 (Commission had exclusive jurisdiction to determine if regulatory action by State Water Resources Control Board and a regional water board constituted an unfunded state mandate).

### B. The Commission Held a Full Public Hearing on the Obligations at Issue; Its Decision Should be Respected

The Commission held a full hearing on whether the trash receptacle and inspection obligations were state mandates. After the test claims were re-filed, interested parties, including the state agencies, had a full opportunity to submit written comments and evidence (*See* AR 2677–84, 2685–3800). The Commission's staff issued a draft analysis on which the state agencies had the opportunity to comment (AR 4701–65, 5143-5320; 5321-26).

The Commission then issued a proposed Statement of Decision (AR 5345-16) and held a public hearing at which representatives of the state agencies testified (AR 5417, 5444-60). After hearing the testimony and considering the evidence before it, the Commission issued a 71-page, single spaced final Statement of Decision (AR 5555-5626).

The Commission's decision was based not only on a review of federal regulations but also involved factual determinations, including whether the trash receptacle and inspection obligations exceeded federal requirements and whether the state could perform these obligations itself. While the CWA's implementing regulations set forth the types of programs that should be included as elements in a municipal separate storm sewer system ("MS4") permit, they leave the design of those programs to the MS4 applicant. 40 C.F.R. § 122.26(d)(2)(iv). Because the regulations do not explicitly require the Permit's trash receptacle or inspection programs,

whether they are federally required, as opposed to other programs that would be more cost-effective or "practicable," is a factual question or a mixed question of fact and law.

Indeed, in the hearing before the Commission, the State and Regional Board representative described this MEP determination as involving "balancing a number of factors in order to determine what the maximum extent practicable is." (AR 5451.) When the Regional Board was before the court of appeal in the first appeal in this case, it argued that the court did not have to reach the constitutional question because the trash receptacle and inspection obligations in the Permit were federal mandates as a matter of law. *County of Los Angeles v. Commission on State Mandates* (2007) 150 Cal.App.4th 898, 913-14. The court of appeal explicitly rejected that argument, holding that "a review of the pleadings and the matters that may be judicially noticed [citations] leads to the inescapable conclusion that whether the two obligations in question constitute federal or state mandates presents factual issues which must be addressed in the first instance by the Commission . . . ." *Id.* at 917-18. The test urged by the state agencies themselves in their Answer Brief (A.B. at 7) characterizes the MEP standard as "a highly flexible concept that depends on balancing numerous factors, including the particular control's technical feasibility, costs, public acceptance, regulatory compliance and effectiveness" – all factual matters.

The Commission considered the arguments and evidence presented to it. The Commission considered the federal authority that described the CWA requirements. It considered the federal regulations that the state agencies cite in their answer brief (A.B. at 23-25) and found that these regulations did not require the trash receptacle or inspection obligations (1

CT 124-25; 130-32; 134-36, 139-42). The Commission considered the MEP standard, specifically recognizing that MS4 permits shall require controls to reduce the discharge of pollutants to the MEP (1 CT 119, 123, 124, 132). The Commission considered the federal guidance manual, USEPA letters, and obligations imposed upon the Regional Board under state-issued permits to industrial and construction sites (1 CT 129, 131-32, 135-36, 141-42).

Although not mentioned in its decision, the Commission also had before it other USEPA-issued stormwater permits that did not include the trash receptacle obligation (AR 3891-4190), evidence that prior Los Angeles County permits that did not include the trash receptacle and inspection obligations (AR 1540-41, 1552, 1555, 1782-83, 3865), letters from the USEPA Administrator and head of the water program for Region IX of USEPA stating that the state, and not cities and counties, had the obligation to inspect facilities for compliance with the state-issued permits (AR 3878-881), and evidence that the Regional Board had initiated negotiations for a contract with the County to pay the County to perform the inspections of industrial facilities on the Board's behalf (AR 3885). After considering this evidence, the Commission concluded that the trash receptacles and inspections were state mandates (1 CT 124-25, 132, 136, 141-42).

The state agencies invite this Court, as they invited the superior court and the court of appeal, to ignore the Commission and independently find that the trash receptacle and inspection obligations are federal requirements (A.B. at 23-25). The Commission, however, has exclusive jurisdiction to determine whether a local agency is entitled to reimbursement for costs mandated by the state. Govt. § 17552. A party

may seek review of that decision pursuant to Code of Civil Procedure § 1094.5, but the Commission's decision must be upheld if it is supported by substantial evidence. Govt. Code § 17559(b). This Court therefore should decline the state agencies' invitation and reaffirm the administrative process enacted by the Legislature.

### C. The State Agencies' Argument that the Regional Board Should Resolve the Issue of Whether the Trash and Inspection Obligations are State or Federal Mandates is Inconsistent with Legislative Intent and the Commission's Exclusive Jurisdiction

#### 1. The State Agencies' Argument is Inconsistent with the Commission's Jurisdiction

The state agencies argue that the Commission should have deferred to the Regional Board's determination of whether the trash and inspection obligations were federal requirements (A.B. at 25-26). In other words, the state agencies ask this Court to hold that the very agency imposing the mandate, the Regional Board, should determine whether municipalities are entitled to a subvention of funds because, according to the state agencies, the Commission should defer to the Regional Board's determination as to whether the mandate is state or federal (A.B. at 28-29).

Such a holding would be inconsistent with the legislative intent underlying Government Code § 17500 *et seq.* and the Commission's exclusive jurisdiction. No court has ever held that the Legislature or the state agency that imposes the mandate also defines whether the mandate is federal or state for subvention purposes.

The Legislature centralized all decisions regarding the existence of an unfunded state mandate in the Commission. Govt. Code § 17500. Inherent in the Commission's power to determine the existence of an unfunded state mandate is the power to determine whether the mandate is

state or federal. *Grossmont Union High School, supra,* 169 Cal.App.4th at 883-85.

The state agencies nevertheless argue that the Government Code and several decades of mandate jurisprudence should be ignored because the Commission is "ill-equipped" to determine if a permit requirement is federally mandated and because the regional boards have expertise in such permits (A.B. at 25-28).[2] The Regional Board's expertise, however, is in choosing the terms of a permit, not in determining whether a mandate is state or federal. The cases cited by the state agencies, *Fukuda v. City of Angels* (1999) 20 Cal.4th 805 and *Yamaha Corporation of America v. State Board of Equalization* (1998) 19 Cal.4th 1, address deference by reviewing courts when the issue is within the agency's expertise (and jurisdiction) and there is a challenge to the agency's action. *Fukada,* 20 Cal.4th at 812; *Yamaha,* 19 Cal.4th at 12. Here, it is the Commission, not the Regional Board, that has the expertise with respect to subvention, and there is no challenge to the Permit's terms before the Commission.

The state agencies do not explain why the Commission has expertise to determine if education, criminal procedure, OSHA and other state agency or legislative mandates are state or federal mandates, but is 'ill-equipped" to make the same determination with respect to regional board mandates. *See e.g., Grossmont Union High School,* 169 Cal.App.4th at 883-85 (Department of Education order requiring mental health services for

[2] The Cities and County do not concede that the sole source of expertise as to the practicability of controls in an MS4 permit lies with a regional board. Because municipalities are the entities actually designing and implementing their pollution prevention programs and designing, constructing and maintaining structural projects in the field, the municipalities have as much or more expertise in such issues. The municipalities bring that expertise to bear when they submit proposed programs and controls in conjunction with their permit applications and renewals.

special education); *County of Los Angeles v. Commission on State Mandates (Davis)* (1995) 32 Cal.App.4th 805, 811 n.3, 818-19 (Penal Code provision requiring counties to provide indigent defendants with investigators and experts); *Hayes,* 11 Cal.App.4th at 1570, 1594 (special education); *Carmel Valley,* 190 Cal.App.3d at 530-31, 543-44 (Board of Control review of firefighter protective clothing).

The state agencies do not identify anything unique to the regional boards or the stormwater program that would make those boards or that program an exception. Indeed, every state agency administering a program where issues of state and federal law are intertwined has expertise in implementing the programs they oversee, as is claimed on the Regional Board's behalf here. Nevertheless, no case has ever held that those agencies' determinations are entitled to deference for subvention purposes.[3]

The state agencies also argue that the Regional Board had an extensive administrative record before it when it adopted the Permit (A.B. at 26). This is not a basis for ignoring the Commission's jurisdiction. Nothing prevented the Regional Board from submitting excerpts of that administrative record to the Commission and explaining why those excerpts or other evidence supported their argument that the Permit's mandates at issue were federally required. Although given the opportunity, the state agencies did not do so.[4]

---

[3] Similarly, as noted in Section IV.B.3 of the Opening Brief, the courts uniformly have rejected arguments that the Legislature's declared intent is binding on the Commission and instead have held that the "Commission must disregard any declarations of legislative intent and, instead, decide for itself whether a reimbursable state mandate exists." *California School Board's Ass'n v. State of California* (2009) 171 Cal.App.4th 1183, 1204.

[4] The state agencies assert that there was an 80,000 page administrative record before the Regional Board (A.B. at 26). They do not identify,

The state agencies finally argue that Congress conferred discretion on the Regional Board to determine whether the trash receptacle and inspection obligations were federal requirements (A.B. at 26). The agencies, however, cite no authority for this proposition other than 33 U.S.C. § 1342(b), which simply authorizes a state to operate its own program in lieu of the federal program. Although the Regional Board is required to assure that a permit meets minimum federal requirements, *cf. Environmental Defense Center, Inc. v. United States Environmental Protection Agency,* 344 F.3d 832, 856 (9th Cir. 2003), the CWA does not authorize or require the Regional Board to determine if a permit exceeds federal requirements. Given that the state is authorized to include provisions that exceed federal requirements, 33 U.S.C. § 1370, the fact that the Regional Board was the permitting agency does not, by itself, indicate that it has the authority or expertise to determine if a mandate is state or federal for the purpose of article XIII B, section 6. That expertise lies with the Commission, as the Legislature has directed and the courts uniformly have found.

### 2. Allowing the Commission to Perform its Statutory Function Would Not Invite Multiplicity of Litigation, Inconsistent Results or Legal Error

The Commission does not address the wisdom or the lawfulness of a mandate. The Commission cannot relieve a municipality from performing that mandate. The Commission's only task is to determine whether, when performing a mandate, a municipality is entitled to a subvention of funds.

---

however, what part if any of that record addressed whether the trash receptacle or inspection obligations were federal requirements. Although given the opportunity to do so before the Commission, they did not make that part of this record.

The state agencies nevertheless argue that allowing the Commission to perform its statutory function with respect to municipal stormwater permits would invite a multiplicity of actions, inconsistent results, and legal error (A.B. at 28-30). Such is not the case.

First, placing the determination of whether a mandate is state or federal in a regional board will result in *more* litigation before the State and regional boards and the courts, not less. As the state agencies argue (A.B. at 32 n.2), any finding by a regional board must be appealed to the State Board and then to the superior court pursuant to Code Civ. Proc. § 1094.5. Water Code §§ 13320 and 13330. Every permittee will be thus be bound to litigate the unfunded mandate issues before the State and regional boards and to appeal those decisions to the courts or have the issues waived. Water Code § 13330(d).

The state agencies' requested alternative procedure also will not eliminate Commission proceedings. A test claim must be filed within one year after the effective date of a permit, or within one year of incurring increased costs. Govt. Code § 17551(c). In many cases, this deadline will arise before State Board and court proceedings are complete. The regional board and the courts also lack authority to decide the other issues that must be addressed pursuant to Government Code § 17556 in order to determine if a permittee is entitled to a subvention of funds. There thus will be a multiplicity of proceedings addressing the mandate issue.

Placing the determination in the Regional Board also will increase the likelihood of inconsistent results, not eliminate them. Each superior court that is faced with a permit provision will be making its own decision as to whether it is a federal or state mandate. The court will be making this decision without the guidance or record that the Commission would

otherwise provide. Nor does having the Commission decide the issue shift the burden of proof. It is the claimants who have the burden before the Commission.

The multiplicity of superior courts hearing these appeals and the possibility of inconsistent rulings is exactly the result the Legislature sought to avoid. Govt. Code § 17500. The Commission, on the other hand, can apply its rulings consistently across all test claims that come before it.

The state agencies also ignore the fact that there is no legal requirement for the Regional Board to address whether a mandate is state or federal because a regional board is not limited by federal law when issuing an MS4 permit. 33 U.S.C. § 1370; Water Code § 13377; *City of Burbank, supra,* 35 Cal. 4th at 627-28. Neither the CWA nor California law requires a regional board to address whether an MS4 permit's terms are federally required. Thus, whether a permit term is a federal mandate is not ordinarily addressed in the proceedings before the regional board; a permittee may not challenge a provision on the ground that it is not federally required since the board may impose the requirement under state law regardless. Under the state agencies' approach, however, a permittee has to litigate the issue before the regional board and the courts, or else it is waived. Water Code § 13330(d).

Third, holding that regional boards should determine whether a mandate is state or federal faces a legal impediment because it requires courts to render advisory opinions, something which courts are not authorized to do. *Neary v. Regents of the University of California* (1992) 3 Cal.4th 273, 284; *Coleman v. Department of Personnel Administration* (1991) 52 Cal.3d 1102, 1126. As discussed above, any finding by a regional board must be appealed to the State Board and then to the superior

court pursuant to Code Civ. Proc. § 1094.5, or review is waived. Water Code §§ 13320 and 13330. Requesting a determination that a mandate is state-required, however, is asking the court (and the State Board) to provide an advisory opinion, because whether a permit provision is state or federally required in itself would not result in the court ordering the provision stricken; the state may include permit terms that exceed federal requirements.

Additionally, in a mandate proceeding under section 1094.5, the court must either command the agency to set aside the order or decision or deny the writ. Code Civ. Proc. § 1094.5(f). Because a permittee would not be asking the court to set aside the permit, but to declare that a permit requirement was a state as opposed to federal requirement, the permittee would essentially be asking for declaratory relief, not a writ of mandate. Declaratory relief, however is not available for review of an administrative decision. *State of California v. Superior Court* (1974) 12 Cal.3d 237, 249.

Finally, allowing the Commission to perform its statutory function will not invite legal error. As discussed above, it is the Commission that has expertise in mandate jurisprudence, not a regional board. The state agencies are free to submit to the Commission all of their evidence and legal arguments, whether or not part of the administrative record generated before the regional board. The Commission then will apply its expertise to the record before it, with any decision subject to judicial review.[5]

---

[5] The state agencies contend that having the Commission decide whether a permit provision is a state or federal mandate could result in conflicting obligations under state and federal law because, when the state does not provide a subvention of funds for a state mandate, the mandate is suspended (A.B. at 30). There would be no conflicting obligations. Any state requirement would be enforceable only if it is enforceable under state law. *See City of Burbank,* 35 Cal. 4th at 618, 627. A state mandate that is

### 3. Collateral Estoppel Does Not Apply Here

The state agencies also argue that collateral estoppel precludes the Commission from determining whether the Permit obligations are state or federal mandates. The agencies concede, however, that although they have previously argued that the prior substantive challenge to the Permit should have preclusive effect, they never addressed this argument in terms of collateral estoppel (A.B. at 31 n.1).

The requirements for collateral estoppel are: (1) the issue sought to be precluded is identical to an issue actually litigated and necessarily decided in the prior proceeding; (2) the prior decision is final and on the merits; and (3) the party against whom preclusion is sought is identical to, or in privity with, the party in the prior proceeding. *Boeken v. Philip Morris USA, Inc.* (2010) 48 Cal.4th 788, 797; *Lucido v. Superior Court* (1990) 51 Cal.3d 335, 341. Contrary to the state agencies' contention, the issue of whether the trash and inspection obligations were federal mandates was not actually litigated or necessarily decided in the prior litigation over the merits of the Permit.

First, the Regional Board had no jurisdiction in the permit proceedings to make a mandate determination. Thus, even if the Regional Board had made any such determination, it would be entitled to no weight. *City of Lodi v. Randtron* (2004) 118 Cal.App.4th 337, 361 ("[A]n administrative order will not be given preclusive effect when the order is made in excess of the agency's jurisdiction.").

Second, the state agencies are judicially estopped from making this argument. The County and several cities attempted in the permit challenge

---

suspended is not enforceable. Cal. Const., article XIII B, § 6(b); Govt. Code § 17581(a).

to litigate whether the Permit's trash and inspection obligation constituted reimbursable state mandates. The Regional Board demurred to those causes of action on the ground that the issue must first be presented in the form of a test claim to the Commission. The superior court agreed and granted the demurrer, holding that the Cities and County could not seek a judicial determination that the Permit contained an unfunded state mandate until they filed an administrative claim with the Commission. *County of Los Angeles v. California Regional Water Control Board for the Los Angeles Region*, Superior Court Case No. BS080758, Ruling on Demurrer, filed December 5, 2003 at 6; Ruling on Demurrer, filed February 19, 2004, at 2-3.[6] The agencies are now judicially estopped from arguing that the prior litigation resolved the mandate issue. *Jackson v. County of Los Angeles* (1997) 60 Cal.App.4th 171, 181 ("Judicial estoppel prevents a party from asserting a position in a legal proceeding that is contrary to a position previously taken in the same or some earlier proceeding.")

Third, as the Commission found, the prior litigation did not address the issue of unfunded mandates (1 CT 120). Once the superior court granted the demurrer without leave to amend, that court had no reason to address whether the trash receptacle and inspection obligations were federal or state mandates. The court of appeal in that case recognized that the Regional Board could impose requirements that went beyond the federal standard (AR 3259), and addressed whether the Regional Board complied with California law in adopting portions of the Permit, such as the

[6] In response to the argument in the court of appeal that the issues had been decided, the court of appeal took judicial notice of these orders and held that this issue was not decided by either the superior court or court of appeal in the prior case (Slip. op. at 36 n.14).

monitoring and reporting obligations. The court concluded that the Permit did not violate state law (AR 3259-60).

Based on its review of the state agencies' arguments and the court of appeal decision, the Commission found that the prior litigation did not address whether the trash or inspection obligations were state, as opposed to federal, mandates (1 CT 120). The court of appeal also rejected this argument (Slip. op. at 36 n.14). Collateral estoppel does not apply.

## IV. THE COMMISSION CORRECTLY FOUND THAT THE PERMIT'S TRASH RECEPTACLE AND INSPECTION OBLIGATIONS WERE STATE MANDATES

Three principles of mandate jurisprudence support the Commission's decision:

1. An executive order constitutes a state mandate where it mandates costs that exceed the mandate in federal law or regulation. Govt. Code §17556(c).

2. An executive order constitutes a state mandate where the issuing agency usurps the discretion given to a local agency and requires specific actions that exceed federal requirements. *Long Beach Unified School District v. State of California* (1990) 225 Cal.App.3d 155, 173 ("*Long Beach Unified*").

3. An executive order constitutes a state mandate where federal law imposes a requirement on the state and the state then freely chooses to shift that obligation onto a local agency. *Hayes,* 11 Cal.App.4th at 1593-94.

All three principles apply in this case.

### A. The Commission Properly Found That the Trash Receptacle and Inspection Obligations Imposed Costs That Exceeded the Mandate in Federal Law

Where a state agency imposes costs that exceed the mandate in federal law or regulation, a local agency is entitled to a subvention of funds.

Government Code §17556(c). The Commission correctly found that the Regional Board did that here (1 CT 125, 131-32, 136, 141). As set forth in the Opening Brief, neither the trash nor the inspection obligations were required by federal law or regulation, which instead allows the permittees to choose the measures they will include in their proposed programs as long as they meet the MEP standard (*see* Opening Br. at 31-35, 40-41).

The state agencies argue that the Commission simply compared the text of the permit and the federal regulations and found a state mandate because the regulations did not expressly require the trash receptacle and inspection obligations (A.B. at 34-35). This argument mischaracterizes the Commission's action. Because Congress delegated to USEPA the obligation to adopt regulations defining federal municipal stormwater permit requirements, the Commission looked first to the federal regulations, which, under *Chevron,* 467 U.S. at 843-44, are to be given controlling weight (1 CT 124-25, 131-32, 134-36, 139-42). The Commission then also looked to other federal authority, such as the EPA guidance manual, to determine the scope of the federal mandate (1 CT 131-32) and had other evidence before it (AR 1551-52, 1782, 3878-81, 3885).

In making its determination, the Commission acknowledged the existence of the MEP standard (1 CT 119, 123-24, 132). The Commission found the obligations to be state mandates not merely because they were not expressly required, but because, after review of the materials before it, there was no evidence indicating that these tasks were federally required.

Contrary to the state agencies' argument (A.B. at 35), this approach did not misconstrue mandate law. The Commission did not rest its decision solely on whether the requirements were expressed in the federal

regulations, but whether they were generally imposed by the federal law. After a full hearing, the Commission concluded that they were not.

The Commission also reviewed the regulations that the state agencies now cite in support of their argument that the obligations were in fact federally mandated (A.B. at 23-25). The Commission found that these regulations did not require the Permit obligations (1 CT 124-25, 131-32, 134-36, 139-42). As set forth in the Cities and County's opening brief, the Commission was correct (*see* Opening Br. at 31-35).

The state agencies also contend that *Long Beach Unified* does not support the Commission's decision because, in that case, the court was addressing state regulations that attempted to interpret and codify federal law, not a "flexible permitting standard," and that the CWA presupposes a need for intervention through issuance of a permit (A.B. at 34). In *Long Beach Unified*, however, the court was in fact addressing a flexible standard, the constitutional duty to take "reasonably feasible" steps to eliminate segregation. 225 Cal.App.3d at 173. The "reasonably feasible" standard at issue in *Long Beach Unified* is no more concrete a standard than "maximum extent practicable."

The fact that the Regional Board issued a permit in order to implement a state program for regulating discharges into the waters of the United States is also not a distinguishing factor. The California constitution applies when a state agency imposes a mandate, whether by regulation or permit. The Constitution does not distinguish between the two.[7]

---

[7] The state agencies argue that they have the authority to impose requirements that exceed federal law, but that is "not likely to be a common occurrence in the context of MS4 permits." (A.B. at 34 n.3). In other words, the state agencies argue, "trust us." As this case demonstrates, however, state agencies can and do impose obligations that exceed federal requirements.

### B. A State Mandate is Created Where a State Agency Usurps a Local Agency's Discretion as to The Manner in Which to Comply With a Federal Mandate

The Commission also found that the trash receptacle and inspection obligations were state mandates because the Permit usurped the permittees' discretion as to how to comply with the federal requirements (1 CT 124-25, 132, 141). This finding was also correct. *See Long Beach Unified*, 225 Cal.App.3d at 173.

The state agencies argue that the Cities and County did not have any discretion as to the design of their program but instead that discretion rested with the Regional Board (A.B. at 35-36). This argument, however, fails to address the legislative history underlying the municipal stormwater permit requirements in the Clean Water Act or the regulations adopted to implement those requirements.

The legislative history is clear that not all the types of controls listed in 33 U.S.C. §1342(p)(3)(B)(iii) are required to be in every MS4 permit. *See* House Committee on Public Works and Transportation, Section-by-Section Analysis (100th Sess. 1987) *reprinted in* 1987 U.S.C.C.A.N. (101 Stat. 7) at 38-39. USEPA reflected this flexibility by adopting regulations that allow permits to reflect site-specific conditions, with an emphasis on management programs rather than "end-of-pipe" treatment imposed by traditional, industrial NPDES permits. 55 Fed. Reg. 47990, 48037-38, 48052 (Nov. 16, 1990).

Under these regulations, a municipality must submit a permit application with a proposed management program addressing four categories of sources. 40 C.F.R. § 122.26(d)(2)(iv)(A), (B), (C), and (D). It is the municipality that proposes these programs. As USEPA stated in the Preamble to these regulations, "Part 2 of the permit application has been designed to allow the applicant the opportunity to propose MEP control

measures for each of these components of the discharge." 55 Fed. Reg. at 48052. It is the Regional Board's obligation to ensure that the municipality's program has controls designed to reduce pollutants to the MEP in the four categories set forth by the regulations. The municipality, however, has the discretion to design its own program within these categories.

*Long Beach Unified* held that a state mandate was created when the state Department of Education mandated specific activities instead of allowing school districts discretion as to how to comply with the federal constitutional mandate. 225 Cal.App.3d at 173. That is exactly what occurred here. The Cities and County had proposed alternatives to trash receptacles and inspections (AR 3670-71, 3675-78). It is not enough, therefore, to argue that trash receptacles or inspections are an "obvious remedy" (A.B. at 23) to make receptacles or inspections a federal requirement for subvention purposes. These methods must be compared to the alternatives that were proposed and that accomplish the same result, but which may be more cost-effective or have other benefits.

The Regional Board did not do this. Instead, the Regional Board, without comment, simply rejected those alternatives and required trash receptacles and inspections. In doing so, the Regional Board mandated these obligations. The Commission correctly found that the Regional Board's mandate of these specific activities imposed requirements that went beyond federal law and constituted a state mandate (1 CT 124-25, 132, 141).

### C. A State Mandate is Created Within the Meaning of Article XIII B, Section 6, Where the State Freely Chooses to Shift a Federal Obligation from Itself to Local Agencies

The Commission also correctly found that the inspection obligations were state mandates because the Regional Board freely chose to impose them on the Cities and County rather than to perform the inspections itself (1 CT 136, 142). When the manner of implementation of a federal program is left to the discretion of the state, the state is not obligated to impose those costs on an agency or school district. When the state does so, a state mandate is created. *Hayes*, 11 Cal.App.4th at 1593.

The issue here, therefore, is not whether the inspection requirements fell within the MEP standard or were otherwise federally mandated. The issue is whether the state freely chose to impose those inspection obligations on the Cities and County instead of performing them itself. As the court held in *Hayes*, "[i]f the state freely chose to impose the costs upon the local agency as a means of implementing a federal program then the costs are the result of a reimbursable state mandate regardless whether the costs were imposed upon the state by the federal government." 11 Cal.App.4th at 1594.

Here, under California's Porter-Cologne Water Quality Act, it is the state, not cities or counties, which is obligated to regulate the discharge of pollutants from commercial, industrial and construction sites. Water Code §§ 13050(d) and (e); 13260; 13263. The Porter-Cologne Act authorizes regional boards to inspect the facility of any person or entity to ascertain whether the purposes of the act are being met. Water Code § 13267(c). The State Board is given the same authority if it will not duplicate the efforts of a regional board. *Id.*, subd. (f). The state thus has the authority to and could perform these inspections itself.

The state agencies cite no authority for the proposition that the stormwater permit issued to the Cities and County would not comply with federal law if the inspection obligations had been omitted because the Regional Board was instead performing them (A.B. at 37-38). By contrast, the Commission had before it the USEPA guidance manual, which did not set forth these inspections as a federal requirement (AR 3446, 3467), USEPA-issued permits that did not contain the inspection of commercial or industrial facilities that were present here, as well as the fact that the prior Los Angeles County MS4 permits did not include such inspections (AR 1551-52, 1782-83, 3891-92), all evidence that the inspection obligations were not federally required.

The shifting of obligations from the state to municipalities is particularly true with respect to inspections of industrial and construction sites holding state-issued general industrial or general construction activity stormwater permits ("GIASP" and "GCASP," respectively). The CWA requires industrial and construction sites to hold permits authorizing their discharge of stormwater. 33 U.S.C. § 1342(p)(2)(B) and (3)(A); 40 C.F.R. § 122.26(b)(14) and (c). In California, the State Board has issued GIASP and GCASP permits to industrial and construction facilities pursuant to Water Code §13377. Both permits provide that the regional boards shall enforce their provisions, including "conducting compliance inspections" (AR 3596, 3601, 2419, 2423). By statute, the State Board collects a fee from these permittees in an amount necessary to cover the costs incurred in connection with the permit's issuance, administration and enforcement. Water Code § 13260(d)(1)(A) and (B). Each Regional Board receives a portion of this money, with not less than 50% of that portion to be spent "solely on stormwater inspection and regulatory compliance issues

associated with industrial and construction stormwater programs." Water Code § 13260(d)(2)(B)(iii).

The state agencies attempt to obscure the *Hayes* analysis by not describing the industrial and construction inspections at issue, arguing that the inspection of industrial sites was for compliance with "county and municipal ordinances" and that regional boards perform permit inspections of industrial and construction sites "to determine compliance with other, state-wide permits." (A.B. at 15, 38.) The Permit, however, requires the inspection of industrial and construction sites not only for compliance with County and municipal ordinances, but for compliance with the state-issued GIASP and GCASP permits that the Regional Board is charged with enforcing (AR 2419, 3596) and for which the State Board collects fees (1 CT 56, 69).[8] As the Commission found, nothing prevented the state or regional boards from performing these inspections for compliance with the state-issued permits as they did before adoption of the Permit (1 CT 136, 142).

No federal law or regulation required the Regional Board to shift this obligation. Other regional boards have not shifted this obligation onto municipalities. For example, in *City of Rancho Cucamonga v. Regional Water Quality Control Board* (2006) 135 Cal,App.4th 1377, cited by the state agencies, the MS4 permit required industrial and commercial facility inspections only for compliance with local municipal ordinances, with the

[8] The Cities and County were required to confirm that each industrial and construction site had a Waste Discharge Identification Number ("WDID") and a Storm Water Pollution Prevention Plan (1 CT 56, 68-69), both requirements of the GIASP and GCSAP, not County or municipal ordinances (AR 2425, 3604, 3649 (issuance of WDID upon approval of submitted Notice of Intent)). The Cities and County were also required to inspect for compliance with Regional Board Resolution 98-08 (1 CT 56, 69), requirements imposed by a state agency, the Regional Board.

regional board continuing to be responsible for inspections to determine compliance with the GIASP and GCASP and state law. 135 Cal.App.4th at 1390.

The state agencies nevertheless argue that separate NPDES permits imposing the same inspection obligations do not create a state mandate (A.B. at 38). Where the Regional Board, however, is simply shifting its own inspection obligations under those permits, and no federal authority requires it to do so, the Cities and County are entitled to a subvention of funds. *Hayes*, 11 Cal.App.4th at 1594.[9] This is precisely the circumstance article XIII B, section 6 is meant to address.

**D. Substantial Evidence Supported the Commission's Decision**

Finally, the state agencies argue that substantial evidence did not support the Commission's decision (A.B. at 40-42). Substantial evidence is "such relevant evidence as a reasonable man might accept as adequate to support a conclusion." *Spurrell v. Spurrell* (1962) 205 Cal.App.2nd 786, 790-91. It requires only that the evidence be reasonable, credible and of solid value. It does not require that the evidence appear to the appellate court to outweigh the contrary showing. *People v. Javier A.* (1985) 38 Cal.3d 811, 819.

The state agencies make arguments about the weight to be given to the USEPA-issued guidance documents, USEPA-issued stormwater permits, the prior permits, and letters from the USEPA administrators regarding the limits of municipal inspection obligations, and evidence that

[9] It is not enough for the state agencies to argue that the Cities and County are required to have a MS4 permit that meets the MEP standard (A.B. at 37). The issue under *Hayes* is whether the state could perform the federal requirement itself or whether it freely chose to impose that requirement on the Cities and County.

the Regional Board had initiated negotiations to pay the County to perform the inspections of industrial facilities on the Board's behalf (A.B. at 40-42).

These arguments, however, are properly made to the Commission, not this Court. It is the Commission that is charged with weighing the evidence. The evidence before the Commission was reasonable, credible, and of solid value, and supports its decision in this case.

## V. CONCLUSION

For the foregoing reasons, and the reasons set forth in the Cities' and County's Opening Brief, the court of appeal's decision should be reversed and the court directed to uphold the Commission's decision that the trash receptacle and inspection obligations are state mandates. This case should then be remanded to the superior court to address the Cities' and County's cross-petition regarding the availability of funding for the inspection obligations, which the superior court did not address in light of its judgment.

Dated: October 21, 2014

Respectfully submitted,

MARK SALADINO
County Counsel
JUDITH A. FRIES
Principal Deputy County Counsel

BURHENN & GEST
HOWARD GEST
DAVID W. BURHENN

By: 
Howard Gest
Attorneys for Real Party in Interest and Appellant County of Los Angeles

BURHENN & GEST
HOWARD GEST
DAVID W. BURHENN

By: _____
Howard Gest
Attorneys for Real Parties in Interest and Appellants Cities of Bellflower, Carson, Commerce, Covina, Downey and Signal Hill

## CERTIFICATION OF WORD COUNT

Pursuant to Rule 8.520(c) of the California Rules of Court, the undersigned counsel certifies that this reply brief contains 8,345 words, including footnotes, as indicated by the word count of the word processing program used.

Dated: October 21, 2014

MARK SALADINO
County Counsel
JUDITH A. FRIES
Principal Deputy County Counsel

BURHENN & GEST
HOWARD GEST
DAVID W. BURHENN

By: _____
Howard Gest
Attorneys for Real Party in Interest and Appellant County of Los Angeles

BURHENN & GEST
HOWARD GEST
DAVID W. BURHENN

By: _____
Howard Gest
Attorneys for Real Parties in Interest and Appellants Cities of Bellflower, Carson, Commerce, Covina, Downey and Signal Hill

# PROOF OF SERVICE

I am employed in Los Angeles County. I am over the age of 18 and not a party to this action. My business address is 624 S. Grand Avenue, 22nd Floor, Los Angeles, California 90017.

On October 21, 2014, I served the foregoing document, described as

**REPLY BRIEF OF REAL PARTIES IN INTEREST AND APPELLANTS COUNTY OF LOS ANGELES AND CITIES OF BELLFLOWER, CARSON, COMMERCE, COVINA, DOWNEY AND SIGNAL HILL**

☐ the original of the document
☒ true copies of the document

in separate sealed envelopes addressed as follows:

See Attached List

☒ **BY U.S. MAIL**: I sealed and placed such envelope for collection and mailing to be deposited on the same day at Los Angeles, California. The envelopes were mailed with postage thereon fully prepaid. I am readily familiar with Burhenn & Gest LLP's practice of collection and processing corresponding for mailing. Under this practice, documents are deposited with the U.S. Postal Service on the same day that is stated in the proof of service, with postage fully prepaid at Los Angeles, California in the ordinary course of business.

☐ **BY FEDERAL EXPRESS**: I am familiar with the firm's practice of collecting and processing correspondence for delivery via Federal Express. Under that practice, it would be picked up by Federal Express on that same day at Los Angeles, California and delivered to the parties as listed on this Proof of Service the following business morning.

☐ **BY FACSIMILE**: I caused the above referenced document to be transmitted via facsimile and to the parties as listed on this Proof of Service.

☐ **BY PERSONAL SERVICE**: I caused such envelope to be delivered by messenger to the office or home of the addressee(s).

☒ **STATE**: I declare under penalty of perjury under the laws of the state of California that the above is true and correct.

☐ **FEDERAL**: I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on October 21, 2014 at Los Angeles, California.

Danette Armstead

**SERVICE LIST**

***State of California Department of Finance v. County of Los Angeles***
***Case No. B237153/BS130730***

| | |
|---|---|
| Kamala Harris<br>Attorney General of the State of California<br>Nelson Richards<br>Deputy Attorney General<br>California Attorney General's Office<br>455 Golden Gate Ave., Suite 11000<br>San Francisco, CA 94102-7004<br>Telephone: (415) 703-5559<br>Facsimile: (415)703-1234 | Attorneys for California State Department of Finance, State Water Resources Control Board, and Los Angeles Regional Water Quality Control Board |
| | |
| Camille Shelton<br>Chief Legal Counsel<br>Eric D. Feller<br>Senior Staff Counsel<br>Commission on State Mandates<br>980 Ninth Street, Suite 300<br>Sacramento, CA 95814<br>Telephone: (916) 323-3562<br>Facsimile: (916) 445-0278 | Attorneys for Respondent<br>Commission on State Mandates |
| | |
| Ginetta Giovinco<br>Richards, Watson & Gershon<br>355 S. Grand Ave., 40th Floor<br>Los Angeles, CA 90071<br>Telephone: (213) 253-0281<br>Facsimile: (213) 626-0078<br>Email: ggiovinco@rwglaw.com | Attorneys for Cities of Artesia, Beverly Hills, Norwalk, Rancho Palos Verdes and Westlake Village |
| | |
| Christi Hogin<br>Jenkins & Hogin<br>Manhattan Towers<br>1230 Rosecrans Avenue, Suite 110<br>Manhattan Beach, CA 90266<br>Telephone: (310) 643-8448<br>Facsimile: (310) 643-8441 | Attorney for City of Monterey Park |
| | |
| Nicholas George Rodriguez<br>City Attorney<br>City of Vernon<br>4305 Santa Fe Avenue<br>Vernon, CA 90058<br>Telephone: (323) 583-8811<br>Facsimile: (323) 826-1438 | Attorney for City of Vernon |
| | |

| | |
|---|---|
| Clerk, Court of Appeal<br>Second Appellate District<br>Ronald Reagan State Building<br>300 S. Spring Street,<br>2nd Floor North Tower<br>Los Angeles, CA 90013 | |
| | |
| Clerk<br>Los Angeles County Superior Court<br>111 N. Hill Street<br>Department 86<br>Los Angeles, CA 90012 | |