

**PALMDALE WATER DISTRICT
RESOLUTION NO. 14-14**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
PALMDALE WATER DISTRICT ADDING ARTICLE 19 TO
THE PALMDALE WATER DISTRICT RULES AND
REGULATIONS TO ADOPT A PRESENTATION
PROTOCOL FOR CLAIMS PRESENTED AGAINST THE
PALMDALE WATER DISTRICT**

WHEREAS, the doctrine of “sovereign immunity” provides that, with certain exceptions created by statute or constitutional law, a public agency is immune from liability for its actions that cause injury to person or property; and

WHEREAS, Government Tort Claims Act (Government Code §§ 810 *et seq.*) (the “Act”) establishes the statutory protocol for the presentations of liability claims to a public agency for consideration and possible action, whether those claims sound in tort, contract, other form of liability; and

WHEREAS, the Act establishes the procedural rules pursuant to which a claimant may seek a damage award from a public agency, including procedural rules requiring the filing of an administrative claim within an applicable six-month or one-year statute of limitations as prerequisites to the filing of a civil action against the public agency; and

WHEREAS, the procedural requirements provide public agencies the opportunity to timely investigate claims, to reduce litigation expenses and potential judgments, and to limit liability by barring certain claims; and

WHEREAS, Section 905 of the Act exempts certain damage claims from the prerequisite administrative claim presentation requirements, including, but not limited to, claims by the state or other local public entity against a public agency; and

WHEREAS, Section 935 of the Act provides that claims that are excluded from the prerequisite administrative claim presentation requirements under Section 905, and that are not governed by other statutes or regulations expressly related thereto, may be covered by a public agency’s charter, ordinance, or regulation that requires the filing of an administrative claim prior to the filing of a civil action against the public agency; and

WHEREAS, Section 22727 of the Water Code provides that all claims for money or damages against irrigation water districts are governed by the Act; and

WHEREAS, Article XIII, Section 32, of the California Constitution sets forth what is commonly known as a “pay first, litigate later” doctrine, which requires a taxpayer to pay a tax, fee, fine, or assessment before commencing a court action to challenge the collection thereof, and said doctrine is made applicable to all types of government, including water districts (*Water Replenishment Dist. of Southern Calif. v. City of Cerritos, et al.* (2013) 220 Cal.App.4th 1450, 1466-67); and

WHEREAS, the California Court of Appeals has stated that the “pay first, litigate later” doctrine only applies when a public agency has a “pay first, litigate later” provision in its policies and practices (*City of Anaheim v. Superior Ct.* (2009) 179 Cal.App.4th 825); and

WHEREAS, board of directors of the Palmdale Water District desires to enact a claims presentation procedure and a “pay first, litigate later” requirement, which will benefit the District and its customers by imposing a more uniform procedure for the filing of claims against the District, streamline the process to reduce the District’s time and expense in responding to such claims, and ensure the District’s revenue remains stable pending litigation to ensure services continue to be provided to the District’s customers.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Palmdale Water District as follows:

Section 1: The above recitals are all true and correct and are hereby adopted as findings.

Section 2: Article 19 entitled “Claims Presented Against The District” is hereby added to the Palmdale Water District Rules and Regulations to read in full as follows:

“ARTICLE 19: CLAIMS PRESENTED AGAINST THE DISTRICT

19.01 AUTHORITY.

This regulation is enacted pursuant to Section 935 of the California Government Code.

19.02 CLAIMS REQUIRED.

All claims against the District for money or damages that are excluded by Government Code § 905 and that are not otherwise governed by the Government Claims Act, California Government Code §§ 900 *et seq.*, or another state law (hereinafter in this resolution, “claims”) shall be presented within the time, and in the manner, prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with Section 900 thereof) for the claims to which that Part applies by its own terms, as those provisions now exist or shall hereafter be amended, and as further provided by this Chapter.

19.03 FORM OF CLAIM.

All claims shall be made in writing and verified by the claimant or by the guardian, conservator, executor, or administrator of claimant. In addition, all claims shall contain the information required by California Government Code §§ 910 through 915.4. The foregoing reference to Government Code §§ 910 through 915.4 shall not be construed to authorize a class claim, and no claim may be filed on behalf of a class of persons unless verified by every member of that class.

19.04 DELIVERY OF CLAIMS AND ADMINISTRATION.

All documents setting forth claims or demands against the District must be delivered to the District Office, located at 2029 East Avenue Q, Palmdale, California 93550, to the attention of the General Manager. The General Manager, or designee, shall audit each demand and

investigate each claim for damages and shall cause the same to be promptly presented to the Board of Directors with a recommendation as to the action which should be taken. Notwithstanding the foregoing, the General Manager may delegate to a third-party administrator the general administration of claims under the continued supervision of the General Manager.

19.05 CLAIM PREREQUISITE TO SUIT.

In accordance with California Government Code §§ 935(b) and 945.6, all claims shall be presented as provided in this section and acted upon by the District prior to the filing of any action on such claims, and no such action may be maintained by a person who has not complied with the requirements contained in this resolution.

19.06 ACTIONS FOR PAYMENT OF TAXES, FEES OR FINES; PAYMENT REQUIRED PRIOR TO COMMENCEMENT OF LEGAL ACTION.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the District or an officer thereof to prevent or enjoin the collection of taxes, fees, or fines sought to be collected pursuant to any provision, resolution, or ordinance of the District for the payment of all taxes, fees, or fines. Payment of all taxes, fees, or fines, interest, and penalties shall be required as a condition precedent to seeking judicial review of the validity or application of any such tax, fees, or fines.

19.07 SUIT.

Any action brought against the District upon any claim or demand shall conform to the requirements of Sections 940-949 of the California Government Code. Any action brought against any employee of the District shall conform with the requirements of Section 950-951 of the California Government Code.

19.08 WARRANT FOR PAYMENT.

If a claim or demand against the District is presented to the Board of Directors and allowed and ordered paid by it, the General Manager shall draw a warrant upon the Finance Director for the amount allowed, which warrant shall be countersigned by the General Manager. The warrant shall also specify for what purpose it is drawn and out of what fund it is to be paid.

If the warrant statement referred to shows sufficient available funds in the treasury legally applicable to the payment of the same, and in case of a written contract that the condition under which the money would become due has been performed, the General Manager shall cause a warrant to be drawn thereon, in the same manner as provided for the payment of other claims and demands.

19.09 SPECIAL CLAIMS PROCEDURES.

Notwithstanding the general provisions of Section 19.02 with respect to claims, pursuant to the authority contained in Section 935 of the California Government Code, the following claims procedures are established for those claims against the District for money or damages not now governed by state or local laws:

- A. Employee Claims. Notwithstanding the exceptions contained in Section 905 of the California Government Code, all claims by public officers or employees for fees, salaries, wages, overtime pay, holiday pay, compensating time off, or vacation pay, sick leave pay, and any other expenses or allowances claimed due from the District, when a procedure for processing such claims is not otherwise provided by state or local laws shall be presented within the time limitations and in the manner prescribed by Sections 910 through 915.4 of the California Government Code relating to the prohibition of suit in the absence of presentation of claims and action thereon by the Board of Directors.
- B. Contract and Other Claims. In addition to the requirements of this resolution, and notwithstanding the exemptions set forth in Section 905 of the California Government Code, all claims against the District for damages or money, when procedure for processing such claims is not otherwise provided by state or local laws, shall be presented within the time limitations and in the manner prescribed by Sections 910 through 915.4 of the California Government Code relating to the prohibition of suit in the absence of presentation of claims and action thereon by the Board of Directors.”

Section 3: Severability. If any section, subsection, paragraph, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this resolution, it being expressly declared that this resolution and each section, subsection, paragraph, sentence, clause and phrase thereof would have been adopted, irrespective of the fact that one or more other section, subsection, paragraph, sentence, clause or phrase be declared invalid or unconstitutional.

Section 4: Construction. This resolution is to be interpreted liberally and applied consistent with the interpretation and application of Article XIII, Section 32 of the California Constitution and Revenue and Tax Code Section 6931.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Board of Directors of Palmdale Water District held on Aug. 27, 2014.


Kathy MacLaren, President
Palmdale Water District


Robert Alvarado, Vice President
Palmdale Water District for
Joe Estes, Secretary
Palmdale Water District