

## REPORT TO CITY COUNCIL

**DATE:** MAY 13, 2009

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** CRAIG STEELE, CITY ATTORNEY

**SUBJECT:** DENIAL OF LIABILITY CLAIM - COUNTY OF LOS ANGELES AND LOS ANGELES COUNTY FLOOD CONTROL DISTRICT CLAIM

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The Natural Resources Defense Council and Santa Monica Baykeeper have filed a lawsuit against the County of Los Angeles and Los Angeles County Flood Control District alleging violations of the federal Clean Water Act due to various alleged stormwater discharge issues. The County and District have filed administrative claims against 58 cities seeking “indemnification” from the cities in the event that the County loses the lawsuit. Essentially, the claims state without evidence that the cities are responsible for the stormwater discharges at issue, if any occurred.

The County’s claim is legally insufficient because its indemnity claim is not yet ripe and may never become ripe. The County has not litigated its lawsuit with the plaintiffs yet, and there is no evidence we are aware of to suggest that the City might be responsible for any of the alleged violations. It should be noted that the plaintiffs, clean water advocates, have not filed any suit or made any claim against the City relating to this issue. Because a trial has not been held, this claim purports to hold the City liable for some potential future damage that may or may not ever materialize. Such a claim subverts the very purpose of the Tort Claims Act. Therefore, the City bears no responsibility in this matter.

Claimants seek an unspecified amount in indemnification, for liability that have not yet incurred. As such, potential damages are impossible to calculate.

### RECOMMENDATION

Staff recommends the City Council deny this claim. If the City Council concurs, the appropriate action would be a motion to deny the claim filed by the County of Los Angeles and Los Angeles County Flood Control District against the City of Agoura Hills and to direct the City Clerk to send a notice of denial.

May 14, 2009

Raymond G. Fortner, Jr.  
County Counsel  
Lauren E. Dods  
Deputy County Counsel  
County Counsel's Office  
500 West Temple Street  
651 Kenneth Hahn Hall of Administration  
Los Angeles, CA 90012

**NOTICE OF CLAIM REJECTION**

**TO: COUNTY OF LOS ANGELES AND LOS ANGELES COUNTY FLOOD  
CONTROL DISTRICT**

Notice is hereby given that the claim that you presented to the City of Agoura Hills ("City") on or about March 12, 2009 and supplemented on or about April 15, 2009, is rejected as of the date of this letter.

**WARNING:**

**Subject to certain exceptions, you have only six months after the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code §945.6.** This time limit applies only to causes of action for which Government Code §§900-915.4 require you to present a claim. Other causes of action, including those arising under federal law, may have different time limitations.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

CITY OF AGOURA HILLS

**BY:** \_\_\_\_\_  
Kimberly M. Rodrigues, MMC  
City Clerk