

DARRYL COTTON

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September 14, 2026

Clerk of the Governing Board
San Diego County Air Pollution Control District
10124 Old Grove Road
San Diego, California 92131

*Via U.S. Certified Mail No. 7022 2410 0001 2590 0375, Return Receipt Requested
(Courtesy copy by email to airinfo@sdapcd.org)*

Re: Claim under the Government Claims Act (Gov. Code §§ 910 et seq.) — Claimant Darryl Cotton — San Diego County Air Pollution Control District; Complaint No. APCD2026-CMP-1888 (odor and air-quality nuisance; United Rentals FRAC tank at 6144 Federal Boulevard).

To the Clerk of the Governing Board and the San Diego County Air Pollution Control Board:

This letter is presented as a written claim against the San Diego County Air Pollution Control District (“the District” or “SDAPCD”) under the Government Claims Act, California Government Code sections 910 through 915, and is filed with the Clerk of the Governing Board as the District’s Administrative Code (§ 5.5(a)) directs. It places the District on notice of, and preserves, my claim arising from the District’s handling of the confirmed odor and air-quality nuisance from the human-waste (septage) operation conducted by United Rentals (North America), Inc., doing business as Reliable Onsite Services, at 6144 Federal Boulevard — the property immediately adjacent to my commercial property at 6176 Federal Boulevard, San Diego. The District is a separate public entity with its own governing board, and this claim is directed to the District alone. The general nature of my injury is stated below; its full extent and amount are continuing and reserved for proof.

This claim is the companion to two claims already presented on the same underlying matter: my claim to the City of San Diego (Claim No. 43952) and my claim to the County of San Diego, presented September 14, 2026, concerning the County’s Department of Environmental Health and Quality. Each of the three agencies confirmed the condition next to my property; none has made a lawful determination that resolves it. The information required by Government Code section 910 is as follows.

- 1. Name and address of claimant (§ 910(a)).** Darryl Cotton, 6176 Federal Boulevard, San Diego, California 92114.
- 2. Address to which notices are to be sent (§ 910(b)).** Darryl Cotton, 6176 Federal Boulevard, San Diego, California 92114; 151DarrylCotton@gmail.com.
- 3. Date, place, and circumstances of the occurrence (§ 910(c)).** Under Complaint No. APCD2026-CMP-1888, the District received and investigated an odor complaint concerning the operation at 6144 Federal Boulevard. On **June 15, 2026**, the District’s inspector documented, downwind of the identified source — the United Rentals FRAC tank at 6144 Federal Boulevard — a “very strong” odor of “human waste/feces.” On **June 16, 2026**, District staff (Ms. Sanchez) wrote that “upper management usually assesses and determines whether a public nuisance violation has occurred or not,” that Mr. Wolff “is aware,” and that he was “still gathering information” and “in

contact with DEH.” The District thus confirmed the odor and identified its source.

The District then disposed of the confirmed complaint without a lawful public-nuisance determination. In the Supervisor’s Comments for Complaint No. APCD2026-CMP-1888, approved **July 13, 2026**, Supervisor Gerhard Wolff wrote, in full: “Unable to show that these odors are impacting a ‘considerable number of persons’ as required per District Rule 51 - Nuisance. Only 1 complaint received to date. Site was advised of nuisance potential and subsequently closed the vent lid from the Frac Tank to reduce odors. Advised complainant to contact APCD again if additional odors are detected. Recommend follow-up inspection if additional complaints are received.” (Exhibit A, COTTON APCD CLAIM - 006.) The District therefore found nuisance potential and directed a remedial step at the FRAC tank, yet declined to treat the confirmed odor as a public-nuisance violation under District Rule 51 on the single stated ground that it was “unable to show” a “considerable number of persons,” because “only 1 complaint [was] received to date.”

That single stated ground rests on the wrong measure and on an incomplete record. District Rule 51, like Health and Safety Code section 41700, turns on whether the discharge causes injury, nuisance, or annoyance to “any considerable number of persons or to the public” — the number of persons the emission affects, not the number of complaints filed with the District. And at the time of that determination the District already possessed direct evidence of the persons affected: a neighbor petition of area residents and businesses reporting this odor — approximately 75 signatories when I provided it to the District with my June 27, 2026 Public Records Act request, that is, before the July 13, 2026 determination was approved, and approximately 90 signatories today. The District made its “considerable number of persons” finding without applying the governing standard and without regard to the evidence of affected persons then in its own file.

I discovered the District’s disposition of the complaint on **September 14, 2026**, when the District produced the Supervisor’s Comments in response to my June 27, 2026 Public Records Act request; the determination had not previously been disclosed to me. The occurrence is continuing: the operation and its emissions persist, and the District has taken no further action. The economic injury on which this claim is based was first discovered on **May 26, 2026**, when the executed \$935,000 sale of my property failed in escrow, the buyer’s broker having identified the odor from the adjacent operation among the reasons the transaction could not close. The places of the occurrence are 6144 Federal Boulevard and my adjacent property at 6176 Federal Boulevard, San Diego, and the offices of the District. I reserve all positions regarding the date of accrual and the timeliness of this claim, and present it now to preserve my rights.

4. General description of the injury, damage, or loss (§ 910(d)). The injuries and losses incurred, so far as known at this time, include: a continuing private and public nuisance from the odor, hydrogen-sulfide and other gas emissions from the operation next door; the loss of an executed \$935,000 sale of my property at 6176 Federal Boulevard, the odor from the adjacent condition being among the reasons the buyer cancelled; the resulting inability to insure and to market the property, and its diminution in value; and related economic loss. These injuries are continuing and continue to accrue, and their full nature, extent, and amount will be established by proof and are reserved.

5. Public employees causing the injury, if known (§ 910(e)). To the extent known, Gerhard Wolff, Supervisor, SDAPCD, who approved the July 13, 2026 determination; the District staff member identified in the record as Ms. Sanchez; the District inspector who conducted the June 15, 2026 site inspection; and other District personnel in the complaint-handling and public-nuisance-determination chain whose identities are presently known to the District or will be ascertained.

6. Amount claimed (§ 910(f)). Because the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount is stated. This claim would be an unlimited civil case; the amount in controversy exceeds twenty-five thousand dollars (\$25,000). Damages are sought according to proof.

Basis of the claim.

California public entities are liable where they fail to discharge a mandatory duty imposed by an enactment designed to protect against the kind of injury suffered, and where that failure proximately causes the injury (Gov. Code § 815.6). My position is that, once the District received and confirmed the odor complaint and identified its source, it was required to determine — under the governing standard of District Rule 51 and Health and Safety Code section 41700 — whether the confirmed emissions constitute a public nuisance, and to make that determination on the record before it. The District's disposition was not a considered discretionary policy judgment, but a failure to apply the governing legal standard and to consider evidence of the affected persons already in its possession. That failure allowed a confirmed, hazardous human-waste emission to persist next to my property and caused the losses described above. This claim is presented to give the District notice and to preserve my rights; I reserve all legal theories, arguments, and positions for any complaint that may follow.

Demand and resolution.

I demand that the District (1) promptly determine, on the complete record — including the neighbor petition already in its possession — and under the correct District Rule 51 and Health and Safety Code section 41700 standard, whether the confirmed emissions from the operation at 6144 Federal Boulevard constitute a public nuisance; conduct the follow-up inspection Supervisor Wolff himself recommended; and take the action that determination requires; and (2) compensate me for the injuries and losses described, in an amount according to proof. I remain willing to discuss a prompt and reasonable resolution of this matter, and to make the underlying records available to the District.

This claim and demand are directed to the San Diego County Air Pollution Control District only. Nothing in it waives, releases, or limits any claim I may have against United Rentals (North America), Inc., Westport Properties, their insurers, the City of San Diego, the County of San Diego, or any other person or entity, and it is presented without prejudice to my pending writ proceedings, to the matter now before the District Attorney, and to my pending claims to the City and the County. I reserve all rights.

Please direct all correspondence regarding this claim to me at the address above. If the District requires presentation on its own claim form under Administrative Code section 5.5(a), please provide it and I will complete it; this letter is submitted as my claim under Government Code section 910 in the interim.

Respectfully,



Darryl Cotton

Owner, 6176 Federal Boulevard, San Diego, California 92114

Exhibits (Bates COTTON APCD CLAIM - ###):

- **Exhibit A** (COTTON APCD CLAIM - 005–006) — SDAPCD Supervisor’s Comments for Complaint No. APCD2026-CMP-1888 (Gerhard Wolff, approved July 13, 2026), produced to claimant September 14, 2026.
- **Exhibit B** (incorporated by reference; furnished on request) — the District’s complete production for Complaint No. APCD2026-CMP-1888 (including the June 15, 2026 inspection documenting the “very strong” “human waste/feces” odor and the June 16, 2026 staff email), and the neighbor petition (approximately 75 signatories when provided to the District with claimant’s June 27, 2026 Public Records Act request, and approximately 90 today) now in the District’s possession.

EXHIBIT A

SDAPCD Supervisor's Comments — Complaint No. APCD2026-CMP-1888
(Gerhard Wolff, approved July 13, 2026) · Produced to claimant September
14, 2026

Supervisor's comments not captured in complaint report:

APCD2026-CMP-1888

6144 Federal Blvd

Supervisor Name

Gerhard Wolff

Supervisor Comments

Unable to show that these odors are impacting a "considerable number of persons" as required per District Rule 51 - Nuisance. Only 1 complaint received to date. Site was advised of nuisance potential and subsequently closed the vent lid from the Frac Tank to reduce odors. Advised complainant to contact APCD again if additional odors are detected. Recommend follow-up inspection if additional complaints are received.

Approval Date

07/13/2026