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# State Water Resources Control Board

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Received  
January 21, 2011  
Commission on  
State Mandates



Edmund G. Brown Jr  
Governor

January 21, 2011

## VIA EMAIL AND CERTIFIED MAIL

Nancy Patton, Assistant Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

### Test Claims Nos. 9-TC-03 through 09-TC-17

California Regional Water Quality Control Board, Santa Ana Region, Order No. R9-2009-030,  
(NPDES No. CAS618030)

### Request for 30 Day Extension of Time to Submit Comments of the California Regional Water Quality Control Board, Santa Ana Region

Dear Ms. Patton:

This is a request for an additional 30 day extension of time in which to submit comments in the above-noted matter. Currently, the Santa Ana Regional Water Quality Control Board's (Santa Ana Water Board) comments are due on February 7, 2011. The July 9, 2010 Notice of Complete Test Claim Filing and Schedule For Comments provides that requests for extensions of time may be filed in accordance with California Code of Regulations, title 2, chapter 2.5, sections 1183.01, subdivision (c) and 1181.1, subdivision (g). As explained herein, the Santa Ana Water Board believes that good cause exists for granting an additional 30 day extension of time, which would extend the deadline to March 9, 2011.

California Code of Regulations, title 2, chapter 2.5, section 1183.01, subdivision (c), provides that a party may request an extension of time before the date set for the filing of comments. (Cal. Code Regs., tit. 2, ch. 2.5, § 1183.01, subd. (c)(1).) The Executive Director may approve a request filed by a state agency for good cause. (*Id.*, at § 1183.01, subd. (c)(1)(B).) The applicable regulations define "good cause" to include, but not be limited to, the following factors:

- (1) the number and complexity of the issues raised;
- (2) a party is new to the case, or other counsel is needed;
- (3) the individual responsible for preparing the document has other time-limited commitments during the affected period;
- (4) the individual responsible for appearing at the hearing has other time-limited commitments;
- (5) illness of a party;
- (6) a personal emergency;
- (7) a planned vacation that cannot reasonably be rearranged;
- (8) a pending public records act request; and
- (9) any other factor, which in the context of a particular claim constitutes good cause. Good cause may be established by a specific showing of other obligations involving

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deadlines that as a practical matter preclude filing the document by the due date without impairing quality.

(Cal. Code Regs., tit. 2, § 1181.1, subd. (h).)

The Test Claim filed by the County of Orange on behalf of Orange County Flood Control District and 14 municipal entities (collectively, "Claimants") concerns permit requirements established in Santa Ana Water Board Order No. R8-2009-030, (NPDES No. CAS618030) (Waste Discharge Requirements for the County of Orange, Orange County Flood Control District, and the Incorporated Cities of Orange County within the Santa Ana Region Urban Storm Water Runoff Orange County), adopted on May 22, 2009 ("Order No. R8-2009-030). The Claimants contend that Order No. R8-2009-030 requires them to establish and implement many new programs and activities that are not required by federal law and that were not required in earlier versions of Order No. R8-2009-030. They seek a determination that these programs and activities are state mandates for which they should receive reimbursement.

For the past six years, Claimants, along with other stakeholders within the Santa Ana Water Board's jurisdiction, have worked with the Santa Ana Water Board on a collaborative watershed-based approach for controlling certain pollutants within the watershed. Collectively, these efforts have consumed millions of dollars of planning and engineering resources, and the final realization of these efforts has the potential to address a significant water quality issue within the watershed. In November 2010, Claimants, along with other stakeholders within the watershed, submitted a proposal to the Santa Ana Water Board that required immediate and significant attention by the Santa Ana Water Board in order to secure potentially millions of dollars in funding for remediation efforts within the watershed that are part of this larger effort. Securing this funding, including a multi-million dollar federal grant, is crucial to continuing these water-quality improvement efforts that would benefit the entire watershed. Additionally, aspects of this proposal intersect with the underlying permit that is the subject of the test claims.

In light of the above, in November of last year, the Commission approved a 60-day extension of the comment period until February 7, 2011. At the time of that request, I had anticipated that that this extension would have allowed sufficient time to work on the proposal and to finalize comments on the Test Claim. For the past two months, I have honored my agreement to the Claimants and other stakeholders and engaged in substantial negotiations and analysis of various regulatory compliance benefits that could be achieved through the proposed activities. The time commitment has been substantial, and was done with the expectation, based on professional courtesy, that I would have at least a month following my involvement with this proposal to focus on the Test Claim. Unfortunately, due to recent changes in the proposal, this work remains ongoing and has intensified as deadlines are looming regarding the securing of the federal grant monies. I am the sole attorney assigned to the Santa Ana Water Board, and have been recently partially reassigned to serve as legal counsel to the North Coast Regional Water Quality Control Board. The Office of Chief Counsel has been unable to fill numerous vacancies due to retirements and transfers.

In conclusion, I appreciate the Commission's consideration of this request. Granting this request would allow me to finish my work with a proposal that has the possibility of creating substantial water quality improvements in the watershed. Accordingly, the Santa Ana Water

Ms. Nancy Patton

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Board believes good cause exists to grant the requested extension for the Santa Ana Water Board to respond until March 9, 2011.

Sincerely,



David R. Rice  
Staff Counsel

cc: Interested Persons List

## Commission on State Mandates

Original List Date: 7/9/2010  
Last Updated: 10/6/2010  
List Print Date: 01/25/2011  
Claim Number: 09-TC-03  
Issue: Santa Ana Region Water Permit

### Mailing List

#### TO ALL PARTIES AND INTERESTED PARTIES:

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, § 1181.2.)

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## COMMISSION ON STATE MANDATES

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DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Solano 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 January 25, 2011, I served the:

Request for Extension of Time

***Santa Ana Region Water Permit, 09-TC-03***

California Regional Water Quality Control Board, Santa Ana Region,

Order No. R8-2009-0030

County of Orange, Orange County Flood Control District, Cities of Anaheim, Brea, Buena Park, Costa Mesa, Cypress, Fountain Valley, Fullerton, Huntington Beach, Irvine, Lake Forest, Newport Beach, Placentia, Seal Beach and Villa Park, 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 January 25, 2011 at Sacramento, California.

  
Heidi J. Palchik