



California Regional Water Quality Control Board Santa Ana Region

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Matthew Rodriquez
Secretary for
Environmental Protection

Received
May 1, 2012
Commission on
State Mandates

Edmund G. Brown Jr.
Governor

SENT VIA E-FILE

May 1, 2012

Nancy Patton, Assistant Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814
Nancy.Patton@csm.ca.gov

Dear Ms. Patton:

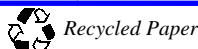
**SANTA ANA REGIONAL WATER PERMIT – SAN BERNARDINO COUNTY, 10-TC-10
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SANTA ANA REGION,
ORDER NO. R8-2010-0036, EFFECTIVE JANUARY 29, 2010
SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT, COUNTY OF SAN
BERNARDINO, CITIES OF BIG BEAR LAKE, CHINO, CHINO HILLS, COLTON, FONTANA,
HIGHLAND, MONTCLAIR, ONTARIO AND RANCHO CUCAMONGA, CO-CLAIMANTS
REQUEST FOR 90 DAY EXTENSION FOR WRITTEN COMMENTS**

This is a request for a 90 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's) comments are due on May 7, 2012. The July 12, 2011 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 (h). As explained herein, the Santa Ana Water Board believes that good cause exists for granting an additional 90 day extension of time, which would extend the deadline for submitting comments to August 5, 2012.

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

California Environmental Protection Agency



obligations involving 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 Co-Claimants concerns permit requirements established in Santa Ana Water Board Order No. R8-2010-036. The Co-Claimants contend that Order No. R8-2010-036 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 the challenged order. They seek a determination that these programs and activities are state mandates for which they should receive reimbursement. This Test Claim raises numerous and complex issues specific to Order No. R8-2010-0036.

I am the sole attorney responsible for preparing the Santa Ana Water Board's response in the instant Test Claim, and am responsible for managing Test Claims 10-TC-07 and 09-TC-03. The majority of my time in the past few months has been devoted to assisting staff in preparing priority orders for consideration by the Santa Ana Water Board and the North Coast Regional Water Quality Control Board. Extending the due date for comments on the Test Claim will allow me the necessary time to consult with staff engineers and scientists and prepare the Santa Ana Water Board's response.

Furthermore, as you are aware, challenges to Commission decisions on test claims filed with respect to the Los Angeles County and San Diego County municipal stormwater permits are currently pending on appeal in state court. Decisions in these cases may clarify controlling legal issues, making further briefing at this time on the Test Claim inadvisable and a waste of state resources.

For the reasons set forth above, the Santa Ana Water Board requests that the due date for written comments on the Test Claim be extended 90 days to August 5, 2012. The Santa Ana Water Board believes that good cause exists to allow the Commission to grant the requested extension and appreciates your consideration of this request. I have spoken with David Burhenn, lead counsel for Co-Claimants, and can represent that there is no objection to this request.

Sincerely,

/s/

David R. Rice
Staff Counsel
Regional Water Quality Control Board, Santa Ana Region

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 May 3, 2012, I served the:

CRWQCB Extension Request

Santa Ana Region Water Permit – San Bernardino County, 10-TC-10

California Regional Water Quality Control Board, Santa Ana Region, Order No.

R8-2010-0036, effective January 29, 2010

San Bernardino County Flood Control District, County of San Bernardino, Cities of Big Bear Lake, Chino, Chino Hills, Colton, Fontana, Highland, Montclair, Ontario and Rancho Cucamonga, Co-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 May 3, 2012 at Sacramento, California.

A handwritten signature in cursive script, appearing to read "Heidi J. Palchik".

Heidi J. Palchik

Commission on State Mandates

Original List Date: 7/6/2011
Last Updated: 2/28/2012
List Print Date: 05/03/2012
Claim Number: 10-TC-10
Issue: Santa Ana Region Water Permit - San Bernardino County

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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