



October 25, 2024

Mr. Thomas Deak
County of San Diego
Office of County Counsel
1600 Pacific Highway, Room 355
San Diego, CA 92101

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Notice of Extension Request Approval and Postponement of Hearing
San Diego Regional Water Quality Control Board Order No. R9-2007-0001, Permit CAS0108758, Parts D.3.a.(3)(b)(iii), D.5.a.(1), D.5.a.(2), D.5.b.(1)(a), D.5.b.(1)(b)(iii-vi), D.5.b.(1)(c), D.5.b.(1)(d), D.5.b.(2), D.5.b.(3), E.2.f., E.2.g., F.1., F.2., F.3., I.1., I.2., I.5., J.3.a.(3)(c)(iv)-(viii), (x)-(xv), the first sentence of L.1. as it applies to the newly mandated activities, and L.1.a.(3)-(6), 07-TC-09-R County of San Diego, Cites of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, and Vista, Claimants

Dear Mr. Deak:

On October 24, 2024, the Commission on State Mandates (Commission) received the claimants' request for a 42-day extension of time to file rebuttal comments on the Department of Finance's (Finance's), the State Controller's Office's (Controller's), and the State Water Resources Control Board and the San Diego Regional Water Quality Control Board's (Water Boards') comments on the above-captioned Draft Proposed Decision and Proposed Parameters and Guidelines, currently due on October 30, 2024, October 31, 2024, and November 4, 2024, respectively, and for postponement of the hearing, currently set for March 28, 2025.

Specifically, the request states: the claimants request the hearing be postponed to the next regularly scheduled meeting, which the Commission's website lists (tentatively) as April 25, 2025; the claimants must coordinate their rebuttal comments with their technical consultant and with each other; claimants consist of 19 local agencies, each with their own records of expenditures required to comply with the mandates identified in the Commission's Draft Proposed Decision and Parameters and Guidelines; the Water Boards' comments, alone, consist of 16 pages of narrative commentary and argument, supported by two declarations and a 62-page technical analysis, which are themselves supported by three volumes of attachments totaling 17,252 pages; neither claimants nor their technical consultant believe they can adequately prepare rebuttal to the comments and supporting materials within the 15 days of service allowed per the Commission's regulations; and claimants believe the requested extension of the rebuttal deadline and postponement of the hearing date are essential to provide a thorough rebuttal.

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In addition, the request states one of the lead attorneys assisting in the rebuttal process will be undergoing surgery on October 28, 2024 and will be unavailable thereafter until December 2, 2024; since the Commission served the Draft Proposed Decision and Parameters and Guidelines on July 23, 2023, the claimants received a Waiver of Procedural Requirements, a six-month extension of time to submit comments and a proposed RRM, the Water Boards', the Controller, and Finance all received a six-month extension of time to submit comments in response, and the Water Boards received an additional two-week extension of time to submit comments and as a result of those extensions, the hearing date was postponed to March 28, 2025; and the claimants have consulted with the Water Boards, Finance, and the Controller and are authorized to represent that none of those parties object to the proposed extension or postponement and are aware of no prejudice to any interested party or any other good reason for denial of our requests.

Government Code section 17553(a)(3) permits "the hearing of a claim to be postponed at the request of the claimant, without prejudice, until the next scheduled hearing." Similarly, section 1183.18(a)(4) of the Commission's regulations provides that "If a party or interested party to a test claim notifies Commission staff that a reasonable reimbursement methodology may be developed for inclusion in pending parameters and guidelines, the days following the date of the notification up to the date on which a reasonable reimbursement methodology is developed, shall be tolled and may not be counted toward the date on which a statewide cost estimate must be adopted by the Commission. The days tolled shall not exceed 60 days from the date of the notification."

Section 1183.12(e) of the Commission's regulations provides within 15 days of service of the written comments prepared by other parties and interested parties, the party that proposed the reasonable reimbursement methodology may file a written rebuttal with the Commission, and shall certify, file, and serve the rebuttal in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.

Section 1187.9(a) of the Commission's regulations provide that any party or interested party to a matter may request an extension of time by filing a request with the executive director before the date set for filing of comments or rebuttals with Commission staff on that matter. The request shall fully explain the reasons for the extension, propose a new date for filing, and be certified, filed, and served in accordance with section 1181.3 of these regulations. A request that would necessitate rescheduling a hearing shall also include a request for postponement of the hearing, pursuant to subdivision (b) of this section. (Cal. Code. Regs., tit. 2 § 1187.9(a).)

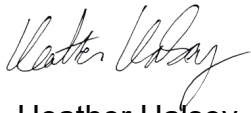
Section 1187.9(b) of the Commission's regulations provide that while postponements are disfavored and pursuant to Government Code section 17530, the executive director has a duty to expedite all matters before the Commission, a request for postponement until the next regularly scheduled hearing, filed by the claimant at least 15 days before the hearing, shall be approved by the executive director for good cause. (Cal. Code. Regs., tit. 2 § 1187.9(b)(3)(A).) Circumstances that indicate good cause in this case

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include: the unavailability of a party, party representative, or witness because of death, illness, or other excusable circumstances and the number and complexity of the issues. (Cal. Code. Regs., tit. 2 § 1187.9(b)(1)(A) and (b)(1)(F).)

Therefore, a 42-day extension from the latest original due date for the claimants' 15-day rebuttal period is approved and the claimants' rebuttal comments to the Controller's, Finance's, and the Water Boards' comments on the Draft Proposed Decision and Parameters and Guidelines are now due by **5:00 p.m. on December 16, 2024**. In addition, this matter is now set for hearing at the next regularly scheduled hearing on Friday, **May 23, 2025**.

Sincerely,



Heather Halsey
Executive Director

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento 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 October 25, 2024, I served the:

- **Current Mailing List dated September 26, 2024**
- **Notice of Extension Request Approval and Postponement of Hearing issued October 25, 2024**
- **Claimants' Request for Extension of Time and Postponement of Hearing filed October 24, 2024**

San Diego Regional Water Quality Control Board Order No. R9-2007-0001, Permit CAS0108758, Parts D.3.a.(3)(b)(iii), D.5.a.(1), D.5.a.(2), D.5.b.(1)(a), D.5.b.(1)(b)(iii-vi), D.5.b.(1)(c), D.5.b.(1)(d), D.5.b.(2), D.5.b.(3), E.2.f., E.2.g., F.1., F.2., F.3., I.1., I.2., I.5., J.3.a.(3)(c)(iv)-(viii), (x)-(xv), the first sentence of L.1. as it applies to the newly mandated activities, and L.1.a.(3)-(6), 07-TC-09-R County of San Diego, Cites of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, and Vista, 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 October 25, 2024 at Sacramento, California.

Jill Magee

Jill Magee
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/26/24

**Claim
Number:** 07-TC-09-R

Matter: San Diego Regional Water Quality Control Board Order No. R9-2007-0001 Permit CAS0108758 Parts D.1.d.(7)-(8), D.1.g., D.3.a.(3), D.3.a.(5), D.5, E.2.f, E.2.g, F.1, F.2, F.3, I.1, I.2, I.5, J.3.a.(3)(c)iv-viii & x-xv, and L.

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City of Chula Vista
City of Del Mar
City of Encinitas
City of Escondido
City of Imperial Beach
City of La Mesa
City of Lemon Grove
City of National City
City of Oceanside
City of Poway
City of San Diego
City of San Marcos
City of Santee
City of Solana Beach
City of Vista

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

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