



# County of San Diego

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October 24, 2024

Commission on  
State Mandates

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October 24, 2024

VIA DROP BOX

Heather Halsey, Executive Director  
COMMISSION ON STATE MANDATES  
980 Ninth Street, Suite 300  
Sacramento, California 95814

**RE:** *Test Claim No. 07-TC-09-R*

Request for Extension of Time to Submit Rebuttal on Draft Proposed Decision  
and Proposed Parameters and Guidelines and Request to Postpone Hearing Date

Dear Ms. Halsey:

On October 14, 2024, the State Water Resources Control Board (State Water Board) and California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) (collectively, the Water Boards), the State Controller's Office, and the Department of Finance, filed comments on Claimants' proposed reasonable reimbursement methodology (RRM) in connection with the referenced matter, along with supporting documentation. For the reasons explained below, Claimants request that the Commission grant an extension of time for Claimants to submit rebuttal so that Claimants' rebuttal to the comments of the Water Boards, State Controller's Office, and Department of Finance are all due **December 16, 2024**. *See*, 2 CCR § 1187.9(a).

Test Claimants also request that the hearing on the Draft Proposed Decision in this matter—currently scheduled for March 28, 2025—be postponed to the Commission's next regularly scheduled meeting thereafter, which the Commission's website lists (tentatively) as April 25, 2025. *See*, 2 CCR § 1187.9(a)-(b).

Section 1187.9, subdivision (a), of the Commission's regulations provides that, so long as a postponement of a hearing would not be required, there is no prejudice to any party or interested party, and there is no other good reason for denial, a request for extension of time to file rebuttal shall be approved. However, subdivision (a) further provides that a party to a matter may request an extension of time that would necessitate

rescheduling a hearing but shall also include a request for postponement of the hearing, pursuant to subdivision (b) of that section.

Section 1187.9, subdivision (b), provides that a party to a matter may request a postponement of a hearing on that matter until the next regularly scheduled hearing and that, although postponements of hearings are disfavored, each request for a postponement must be considered on its own merits and the executive director may postpone the matter on an affirmative showing of good cause. Subdivision (b)(1) provides that circumstances that may indicate good cause to postpone a hearing include the number and complexity of the issues and the unavailability of a party representative because of illness or other excusable circumstances.

Here, 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. 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. Claimants thus believe the requested extension of the rebuttal deadline and postponement of the hearing date are essential to provide a thorough rebuttal.

On a personal note, as one of the lead attorneys assisting in the rebuttal process, I 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 on July 27, 2023, the Claimants received a 6-month extension of time to submit comments and a proposed RRM, the Water Boards, the State Controller’s Office, and the Department of Finance all received a 6-month extension of time to submit comments in response, and the Water Boards received an additional 2-week extension of time to submit comments in response. As a result of those extensions, the hearing date on this matter was initially postponed from October 27, 2023, to December 1, 2023, and then to the current hearing date of March 28, 2025.

I have consulted with the Water Boards, Department of Finance, and State Controller's Office and am authorized to represent that none of those parties object to the proposed extension or postponement. Finally, I am aware of no prejudice to any interested party or any other good reason for denial of our requests.

The Claimants appreciate your consideration of these extension and postponement requests. Please let me know if you have any questions. I can be reached at (760) 525-3246 or by e-mail at [Thomas.Deak@sdcounty.ca.gov](mailto:Thomas.Deak@sdcounty.ca.gov) until close of business on October 25, 2024. Thereafter, please address any questions to Anya Kwan of Best Best & Krieger. Ms. Kwan can be reached at (626) 696-9319 or by email at [Anya.Kwan@bbklaw.com](mailto:Anya.Kwan@bbklaw.com).

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge, information, or belief, and that this declaration is executed on this 24<sup>th</sup> day of October, 2024, at San Diego, California.

Very truly yours,

CLAUDIA G. SILVA, Acting County Counsel

By

  
THOMAS DEAK, Senior Deputy

cc: Service List [via Commission Drop Box]

TD/tlm  
10-90318

## 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*

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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.

**Claimants:** City of Carlsbad  
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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