



State Water Resources Control Board

August 31, 2022

RECEIVED
August 31, 2022
**Commission on
State Mandates**

VIA DROP BOX

Heather Halsey
Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

REQUEST FOR EXTENSION OF TIME TO FILE WRITTEN COMMENTS; REQUEST FOR POSTPONEMENT OF HEARING

Draft Proposed Decision on California Regional Water Quality Control Board, Santa Ana Region, *Order No. R8-2009-0030, Sections IX, X, XI, XII, XIII, and XVIII*, 09-TC-03, Santa Ana Regional Water Quality Control Board, Resolution No. R8-2009-0030, adopted May 22, 2009

County of Orange, Orange County Flood Control District, and the 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

Dear Ms. Halsey,

By letter dated August 17, 2022, the Commission on State Mandates (Commission) issued a Draft Proposed Decision, Schedule for Comments, and Notice of Hearing in the above test claim matter. The letter establishes a September 7, 2022, deadline for filing written comments on the Draft Proposed Decision. On August 24, 2022, the Commission granted an extension to this deadline to the Claimants alone until October 14, 2022. For the reasons set forth below, the State Water Resources Control Board (State Water Board) and the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board) (collectively Water Boards) request the same extension of time to file written comments on the Draft Proposed Decision until 5:00 p.m. on October 14, 2022. This is a timely request as it is being made before the date set for filing comments or rebuttals. (Cal. Code Regs., tit. 2, § 1187.9(a).)

The Draft Proposed Decision is lengthy and proposes to resolve numerous issues in a complex test claim matter first filed in 2010. As Claimants noted in their August 23, 2022, request, "the Draft Proposed Decision is the first since 2009 to address substantive issues in municipal separate storm sewer system ('MS4') permit test claims." (Claimants' Request for Extension, August 23, 2022, p. 2.) Based on these considerations, additional time is necessary for the Water Boards to carefully evaluate the Draft Proposed Decision, consider prior written comments on similar or identical issues in other pending test claims, and develop thoughtful written comments for submittal to the Commission.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

The Water Boards request an extension of time until 5:00 p.m. on October 14, 2022, to align with the comment deadline established for Claimants in the Notice of Extension Request Approval issued August 24, 2022. If granted, the extension would not result in any prejudice to other parties and would be fair to all. As Claimants noted in their request, "additional time for comments would benefit the Water Boards and the Department of Finance, as well as interested parties." In addition, both the Santa Ana Water Board and State Water Board have new counsel who will need to review and familiarize themselves with this matter. Some of those counsel also have pre-planned vacations over the Labor Day weekend. The Water Boards are aware of no other good reason for denial of this request.

Pursuant to section 1187.9(b) of the Commission's regulations, the Water Boards also respectfully request postponement of the hearing on this matter currently scheduled for December 2, 2022. That is the date of a regularly scheduled Santa Ana Water Board meeting, based on the meeting schedule established in late 2021 for the 2022 calendar year.¹ As such, certain Santa Ana Water Board representatives will not be available for a hearing on this matter on December 2, 2022, due to this conflict. The Water Boards therefore request that the hearing on this matter be postponed until the next regularly scheduled Commission meeting and believe good cause exists to grant this request. (See, e.g., Cal. Code Regs., tit. 2, § 1187.9(b)(1)(A) and (b)(2)(H).) The Water Boards do not presently have any conflicts with the Commission's next regularly scheduled meeting on January 27, 2023. Moreover, the Water Boards have no information that would indicate that the requested postponement would prejudice Claimants or any other interested party. (See Cal. Code Regs., tit. 2, §1187.9(b)(1)(E).)

Based on consideration of the standards set forth in section 1187.9, subdivisions (a) and (b), of the Commission's regulations, the Water Boards respectfully request that the Commission: (1) grant the Water Boards' request for extension of time to submit comments on the Draft Proposed Decision until 5:00 p.m. on October 14, 2022, and (2) postpone the hearing in this matter to the next regularly scheduled Commission meeting on January 27, 2023.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge, information, or belief.

Sincerely,



Catherine George Hagan
Attorney IV
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¹ See Santa Ana Water Board website, Year 2022 Board Agendas, Agenda Items, Updates, Minutes and Meeting Locations, available at https://www.waterboards.ca.gov/santaana/board_info/agendas/2022_agendas.html.

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 September 1, 2022, I served the:

- **Notice of Extension Request Approval and Postponement of Hearing issued September 1, 2022**
- **Finance's Request for Extension of Time filed August 31, 2022**
- **Water Boards' Request for Extension of Time and Postponement of Hearing filed August 31, 2022**

*California Regional Water Quality Control Board, Santa Ana Region,
Order No. R8-2009-0030, Sections IX, X, XI, XII, XIII, and, XVIII, 09-TC-03
Santa Ana Regional Water Quality Control Board, Resolution No. R8-2009-0030,
adopted May 22, 2009*

County of Orange, Orange County Flood Control District; and the 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 September 1, 2022 at Sacramento, California.



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Last Updated: 9/1/22

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City of Costa Mesa
City of Cypress
City of Fountain Valley
City of Fullerton
City of Huntington Beach
City of Irvine
City of Lake Forest
City of Newport Beach
City of Placentia
City of Seal Beach
City of Villa Park
County of Orange
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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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