



September 7, 2022

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

Re: Request for Extension: Test Claim 09-TC-03, California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030, Sections IX, X, XI, XII, XIII and XVIII

Dear Ms. Halsey:

Pursuant to Cal. Code Regs. tit.2, § 1187.9,¹ I am writing as Claimant Representative for Claimants Union City and City of Dublin in pending consolidated Test Claims 16-TC-03, 10-TC-01, 10-TC-02, 10-TC-03 and 10-TC-05 (“Consolidated Test Claims”), and on behalf of the Alameda Countywide Clean Water Program as an interested member of the public, to request an extension of time to file comments on the Draft Proposed Decision in Test Claim 09-TC-03, dated August 17, 2022. Such request is timely in that it is being made before the date set for filing comments or rebuttals. Cal. Code Regs. tit. 2, § 1187.9(a).

Your letter accompanying the Draft Proposed Decision indicates that written comments are due no later than 5:00 p.m. on September 7, 2022. We respectfully request an extension of that deadline to 5:00 p.m. on October 14, 2022, for the following reasons:

- The Staff Recommendation and Draft Proposed Decision is 199 pages in length, covering a complex test claim with many issues of first impression for the Commission and the parties. Many of the issues raised in the Draft Proposed Decision are directly relevant to the pending Consolidated Test Claims. Further, as noted by Claimants in Test Claim 09-TC-03, some of the issues raised in the Draft Proposed Decision were not briefed by either Claimants or the Water Boards/Department of Finance, and will require additional legal research in order to meaningfully respond. The initial comment deadline did not provide sufficient time for the public to assess the analysis in the Draft Proposed Decision.

¹ All legal authority references are to the California Code of Regulations, unless otherwise stated.

- The Draft Proposed Decision raises not only legal but factual issues which are complex and involve a lengthy administrative record that we have not previously been involved with. The existing comment deadline did not provide sufficient time to the public to assess the discussion of issues in the voluminous record.
- The Draft Proposed Decision is the first since 2009 addressing substantive issues in municipal separate storm sewer system (“MS4”) permit test claims. As mentioned above, the pending Consolidated Test Claims involve similar issues relating to MS4 permits.
- An extension of the comment deadline to October 14 would not require a postponement of the December 2, 2022 scheduled hearing before the Commission as the hearing has already been extended until January 27, 2023.
- The requested extension would not result in prejudice to any party. The record in this matter has been closed since December 2016, and the additional time for comments would benefit the Water Board and the Department of Finance, as well as other interested parties.

Section 1187.9(a) directs 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, the request shall be approved.” Cal. Code Regs. tit. 2, § 1187.9(a). Claimants respectfully submit that under those standards, the request to extend the comment deadline to 5:00 p.m. on October 21, 2022 should be approved.

Thank you for your consideration of this request.

I declare under penalty of perjury that the foregoing, signed on September 7, 2022, is true and correct to the best of my personal knowledge, information, or belief.

Sincerely,



Gregory J. Newmark

5190360.1

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 8, 2022, I served the:

- **Current Mailing List dated September 8, 2022**
- **Notice of Extension Request Approval issued September 8, 2022**
- **Interested Party's Request for Extension of Time filed September 7, 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 8, 2022 at Sacramento, California.



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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/8/22

Claim Number: 09-TC-03

Matter: California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030

Claimants: City of Anaheim
City of Brea
City of Buena Park
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
Orange County Flood Control District

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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