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September 15, 2022
Commission on
State Mandates

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September 15, 2022

Via Drop Box

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 9<sup>th</sup> Street, Suite 300
Sacramento, CA 95814

Re: Request for Second Extension of Time to File Comments on 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 XVII, 09-TC-03

Dear Ms. Halsey:

Pursuant to Cal. Code Regs. tit.2, § 1187.9, I am writing as Claimant Representative for Claimants in the above-referenced Joint Test Claim to request a short second extension of time for Claimants to file comments on the Draft Proposed Decision in that matter, dated August 17, 2022. Such request is timely in that it is being made before the date set for filing comments or rebuttals. Section 1187.9(a).

On August 24, 2022, you granted Claimants' request for an extension of the comment period to 5:00 p.m. on October 14, 2022. The same extension has since been granted to the Water Boards and an interested party, and an extension to October 21, 2022 was granted to the Department of Finance. Also, the hearing on adoption of the Proposed Decision has been continued to January 27, 2023.

Claimants respectfully request a second extension of that deadline to 5:00 p.m. on October 28, 2022, for the following reasons:

 As indicated in our original request for an extension, the Staff Recommendation and Draft Proposed Decision is 199 pages in length,

<sup>&</sup>lt;sup>1</sup> All citations are to Title 2 of the California Code of Regulations.

Ms. Heather Halsey Page 2 September 15, 2022

covering a complex test claim. A number of complex factual issues have been raised, including relating to funding and operational questions, which must be addressed by Claimants. In discussions with Claimants, we have determined that this work requires review of records from a period of more than 10 years as well as conducting follow-up inquiries regarding those records. Individual permit requirements must be reviewed with Claimant representatives to address factual issues raised in the Draft Proposed Decision. As noted in our original extension request, individuals with pertinent information and/or evidence may have retired and/or are no longer employed by Claimants, complicating the ability of Claimants to rapidly investigate factual issues.

- An extension of the deadline would not require a postponement of the January 27, 2023 hearing before the Commission. Pursuant to Section 1183.6(b), a proposed draft decision can be released as late as eight weeks before the hearing date. Submittal of comments on October 28 would give Commission staff more than two months to review the comments and prepare a final proposed decision for the Commission's consideration. This is far longer than the minimum five weeks required under Section 1183.6(c). Thus, no postponement of the hearing date is required, and Claimants are not requesting a postponement of the hearing date.
- The requested extension would not prejudice any party.

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." Claimants respectfully submit that under those standards, the request to extend the comment deadline to 5:00 p.m. on October 28, 2022 should be approved.

Thank you for your consideration of this request.

I declare under penalty of perjury that the foregoing, signed on September 15, 2022, is true and correct to the best of my personal knowledge, information, or belief.

David W. Burhenn

Claimant Representative

Address, phone and e-mail set forth above

cc: Claimants

## **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 16, 2022, I served the:

- Notice of Extension Request Approval issued September 16, 2022
- Claimants' Request for Extension of Time filed September 15, 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 16, 2022 at Sacramento, California.

Jill L. Magee

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Mailing List 9/8/22. 10:39 AM

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# **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

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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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