



State Water Resources Control Board

January 13, 2023

RECEIVED
January 13, 2023
*Commission on
State Mandates*

VIA CSM DROP BOX

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

California Regional Water Quality Control Board, Santa Ana Region, Order No. R8-2009-0030, Sections IX, X, XI, XII, XIII, and, XVIII, Adopted May 22, 2009, 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

REQUEST FOR POSTPONEMENT OF HEARING

Dear Ms. Halsey:

The State Water Resources Control Board (State Water Board) and California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board) (collectively, Water Boards) respectfully request a postponement of the hearing on the above-captioned matter currently set for hearing on January 27, 2023, until the next regularly scheduled hearing on March 24, 2023.

Good cause exists for the postponement of the hearing under section 1187.9(b)(1)(E) and (F) of the Commission's regulations. First, the proposed decision was issued only yesterday afternoon, and includes significant, substantive changes from the draft proposed decision issued in August 2022.¹ In addition to a new conclusion that the test claim should be partially approved – a reversal of the prior conclusion that the test claim should be denied – there are more than 70 additional pages of new analysis. The Water

¹ A request for a postponement filed by an interested party may be approved by the Executive Director for good cause. A request filed at least 15 days before the hearing shall be approved for good cause. (Cal. Code Regs., tit. 2, § 1187.9(b)(3).) The Water Boards note that a request within the 15-day window would have required submission on the same day the proposed decision was issued, before having an opportunity for even a cursory review.

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

Boards submit that this constitutes a significant, unanticipated change in the status of the matter and as a result, the matter is not ready for hearing.

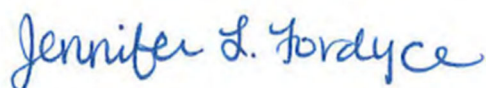
Second, this matter raises numerous and complex issues and the parties have been given an extremely limited period of time to review this new conclusion and analysis in advance of the scheduled hearing date. With barely 10 business days prior to the hearing, there is insufficient time to properly analyze the merits of the analysis and conclusions of this new, significantly changed version of the decision, and to prepare to testify before the Commission. Nor have the parties been given an opportunity to file written comments on this new decision with its new analysis and findings.²

The Water Boards recognize that postponements are disfavored under the Commission's regulations. We do not make this request lightly and understand the importance of expediting all matters. However, given the number and complexity of the issues, the new analysis, conclusions and possibly new evidence to consider, together with the proximity of the hearing date, the Water Boards submit that good cause exists for the postponement of the hearing to the next regularly scheduled hearing on March 24, 2023.

The Water Boards appreciate your consideration of this request for postponement of the hearing. Please let me know if you have any questions. I can be reached by phone at (916) 324-6682 or by email at Jennifer.Fordyce@waterboards.ca.gov.

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

Sincerely,



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cc: Service List via CSM Dropbox

² Additionally, several important issues in this decision are also at issue in the pending petition for review with the California Supreme Court in *Department of Finance v. Commission on State Mandates*, Case No. S277832.

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 January 17, 2023, I served the:

- **Notice of Postponement of Hearing issued January 17, 2023**
- **Finance's Request for Postponement of Hearing filed January 13, 2023**
- **Water Boards' Request for Postponement of Hearing filed January 13, 2023**

*California Regional Water Quality Control Board, Santa Ana Region,
Order No. R8-2009-0030, Sections IX, X, XI, XII, XIII, and, XVIII, Adopted
May 22, 2009, 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 January 17, 2023 at Sacramento, California.



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Last Updated: 1/12/23

Claim Number: 09-TC-03

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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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