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February 17, 2017

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RECEIVED
February 17, 2017
*Commission on
State Mandates*

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

Re: **Objection to Request for Extension by Regional Water Quality
Control Board**
California Regional Water Quality Control Board,
San Francisco Bay Region, Order No. R2-2009-0074
Consolidated 10-TC-01, 10-TC-02, 10-TC-03 and 10-TC-05

Dear Ms. Halsey:


The City of San José objects to the request by the Regional Water Quality Control Board ("Regional Board) to extend the briefing date to respond to request for additional evidence and briefing on Provisions C.2.b, C.2.c, C.2.e and C.2.f. and for an extension of the hearing date. The City does not believe that the Regional Board has met its burden of showing good cause for the extension.

In the Commission's December 23, 2016 letter granting the Regional Board an extension to February 21, 2017, the Commission suggested that to meet its burden of production, the Regional Board (or the State Board) would need to provide copies of Urban Runoff Management Plans, associated Work Plans and evidence of adoption by the Regional Board and the State Board to show that the requirements in those plans were in fact incorporated into the 2002 permits. (Commission letter to Marnie Ajello, dated December 23, 2016, p. 4).

In Ms. Ajello's letter of February 16, 2017, the Regional Board's basis for an extension is the delay by local agencies to respond to the Regional Board's Public Records Act requests. We are confused about the Regional Board's need for any Public Records Act requests since the Urban Runoff Management Plans and Work Plans would have been submitted to the Regional Board by necessity in order for the Regional Board to approve them. Moreover, it appears that the approval letters are the more salient evidence that would support the Regional Board's claims that the requirements were in fact incorporated into the 2002 permits¹. Approval letters would have originated with the Regional Board and therefore should be in the Regional Board's files. Therefore, the basis of the Regional Board's request for an extension fails to meet the showing of good cause and the City urges the Commission to reject the Regional Board's request for an extension.

Very truly yours,

RICHARD DOYLE, City Attorney

By: 
MARGO LASKOWSKA
Sr. Deputy City Attorney

LSG/lsg

¹ The City does not concede that mere approval of Urban Runoff Management Plans and Work Plans are sufficient to meet the Regional Board's burden of showing that the 2009 permit did not impose new requirements.

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 February 21, 2017, I served the:

CRWQCB Request for Extension; Claimant (City of San Jose) Comments on the Request for Extension; Claimants (Counties of Alameda and San Mateo) Comments on the Request for Extension; Claimant (County of Santa Clara) Comments on the Request for Extension; and Notice of Extension Request Approval

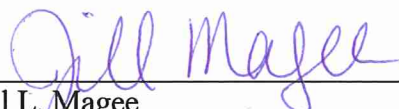
California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2009-0074, Provisions C.2.b, C.2.c, C.2.e, C.2.f, C.8.b, C.8.c, C.8.d, C.8.e.i, ii and iv, C.8.f, C.8.g, C.10.a.i, ii, and iii, C.10.b, C.10.c, C.10.d, C.11.f, and C.12.f,

10-TC-01, 10-TC-02, 10-TC-03, and 10-TC-05

Cities of Alameda, Brisbane, and San Jose, and County of Santa Clara, 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 February 21, 2017 at Sacramento, California.



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Mailing List

Last Updated: 2/9/17

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Claimant: Cities of Alameda, Brisbane, and San Jose, and County of Santa Clara

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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