



Linda S. Adams  
Acting Secretary for  
Environmental Protection

# State Water Resources Control Board

## Office of Chief Counsel

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Received

January 5, 2011  
Commission on  
State Mandates

Edmund G. Brown Jr.  
Governor

January 5, 2011

Nancy Patton, Assistant Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Dear Ms. Patton:

Re: **Test Claim No. 10-TC-05**

### **Request for Extension of Time to Submit Comments of the California Regional Water Quality Control Board, San Francisco Bay Region**

The Regional Water Quality Control Board, San Francisco Bay Region (San Francisco Bay Regional Water Board) would like an extension time in which to submit responsive comments to the test claim filed by the City of San Jose which is numbered 10-TC-05.

California Code of Regulations, title 2, chapter 2.5, section 1183.01, subdivision (c), provides that a party may request an extension of time before the date set for the filing of comments. (Cal. Code Regs., tit. 2, ch. 2.5, § 1183.01, subd. (c)(1).) The Executive Director may approve a request filed by a state agency for good cause. (*Id.*, at § 1183.01, subd. (c)(1)(B).) The applicable regulations define "good cause" to include, but not be limited to, the following factors:

(1) the number and complexity of the issues raised; (2) a party is new to the case, or other counsel is needed; (3) the individual responsible for preparing the document has other time-limited commitments during the affected period; (4) the individual responsible for appearing at the hearing has other time-limited commitments; (5) illness of a party; (6) a personal emergency; (7) a planned vacation that cannot reasonably be rearranged; (8) a pending public records act request; and (9) any other factor, which in the context of a particular claim constitutes good cause. Good cause may be established by a specific showing of other obligations involving deadlines that as a practical matter preclude filing the document by the due date without impairing quality.

(Cal. Code Regs., tit. 2 § 1181.1, subd. (h).)

The San Francisco Bay Regional Water Board requests that the deadline for filing comments be extended until March 18, 2011. Due to the State's budget shortfall all staff within the San

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Ms. Nancy Patton

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Francisco Bay Regional Water Board and the State Water Resources Control Board ("State Water Board"), including the Office of Chief Counsel, are required to take one or more unpaid days off per month. Additionally, the State of California has a hiring freeze applicable to both the San Francisco Bay Regional Water Board and State Water Board. Together, these actions have significantly constrained staffs' ability to respond to the Test Claim in a timely and thorough manner.

The Test Claim is lengthy. The issues raised are numerous, complex, and novel, and will require considerable staff effort at a time when both the Office of Chief Counsel and the San Francisco Bay Regional Water Board are particularly short-staffed and limited by a reduced work schedule. In particular, the Office of Chief Counsel has lost six of its most senior attorneys to retirement within the last year, and has been unable to fill these positions. As the primary attorney responsible for this matter, I have reduced work hours and expanded responsibilities. Furthermore, I am experiencing a personal emergency due to the time that I must devote to settling the estate of a family member who has recently died. Accordingly, I have limited time to devote to this matter.

For the reasons set forth above, the San Francisco Bay Water Board requests that the due date for written comments on the Test Claim be extended until March 18, 2011. The San Francisco Bay Regional Water Board believes that good cause exists to grant the requested extension and appreciates your consideration of this request.

Sincerely,



Dorothy Dickey  
Senior Staff Counsel