



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

RECEIVED

November 17, 2016

**Commission on
State Mandates**

November 17, 2016

VIA DROP BOX

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

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION,
ORDER NO. R9-2009-0002, 10-TC-11

COUNTY OF ORANGE, ORANGE COUNTY FLOOD CONTROL DISTRICT, CITIES OF DANA
POINT, LAGUNA HILLS, LAGUNA NIGUEL, LAKE FOREST, MISSION VIEJO, AND SAN
JUAN CAPISTRANO, CO-CLAIMANTS

WATER BOARDS' REQUEST FOR FURTHER EXTENSION OF TIME TO SUBMIT THE
ADMINISTRATIVE RECORD FOR THE UNDERLYING SAN DIEGO REGION MS4 PERMIT,
R9-2009-0002 AND FOR POSTPONEMENT OF HEARING

Dear Ms. Halsey:

On September 9, 2016, the Commission on State Mandates (Commission) requested that the State Water Resources Control Board (State Water Board) and the San Diego Regional Water Quality Control Board (San Diego Water Board) (collectively Water Boards) file a copy of the official administrative record(s) for the underlying Municipal Separate Storm Sewer System (MS4) permit, R9-2009-0002 (NPDES No. CAS0108740) on October 10, 2016. On September 20, 2016, the Commission granted the Water Boards' request for extension of time to November 10, 2016, to file the administrative record.

The San Diego Water Board uploaded the administrative record to the Commission's Drop Box on November 10 but was informed by the Commission on November 14 that the files were not in legible format as required by regulations. We believe all of the files are now in legible format with the exception of several audio files (in MP3 format) of early hearings on the underlying permit which have not yet been converted to hard copy transcripts/PDF. It is the San Diego Water Board's typical practice to include audio recordings rather than hard copy transcripts in its administrative records unless the record must be prepared for judicial proceedings.¹ However, in a telephone conversation with Jill Magee on November 15, the Water Boards learned that the Commission requires the record contain hard copy transcripts (capable of conversion to PDF) instead of audio files. Ms. Magee also stated that the Commission prefers that the San Diego

¹ State Water Board regulations applicable to petitions for review of regional water board actions by the State Water Board specify that when an administrative record is requested, it shall be filed "including a copy of the tape recording of the regional board action, or a transcript, if available." Cal. Code Regs., tit 23, § 2050.5(a)."

Water Board submit the administrative record inclusive of transcripts from audio files instead of submitting the partial record immediately, to be supplemented at a later date.

For the reasons described below, the San Diego Water Board requests a 30 day extension of time until December 10, 2016, to file the administrative record. It will be necessary for the San Diego Water Board to prepare its own transcript of the audio files as the reporting company no longer has the record from which to prepare a transcript. The Board hopes that reliance or partial reliance on electronic conversion programs may expedite this process and is exploring these options. In any event, we expect the process of preparing transcripts to be time consuming due to the nature of hearings on MS4 permits where many different speakers are heard and board discussion is frequently extensive. Additionally, staff working on the administrative record are also responsible for other duties, including assisting with preparation of comments and administrative records for other test claims. Also, separate from the preparation of transcripts, several placeholders were noted in the index to the administrative record filed November 10 indicating that the San Diego Water Board is still trying to locate some claimant-authored reports for inclusion in the record. We hope to be able to locate and include all of these reports in the record when it is submitted. Other reasons supporting the requested extension include the upcoming Thanksgiving holiday and, as the attorney responsible for the San Diego Water Board test claim matters, I have a preplanned out-of-state vacation from November 30-December 5.

Section 1187.9(a) of the Commission's regulations provides 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. The hearing on this test claim is tentatively set for March 24, 2017. It appears that a 30 day extension to submit the record may necessitate a postponement of the hearing to the next regularly scheduled Commission hearing date. Accordingly, the Water Boards also request that the hearing be postponed to the next regularly scheduled hearing date.

Section 1187.9(b)(1) of the Commission's regulations authorize the executive director to grant a postponement of hearing upon an affirmative showing of good cause. The Water Boards believe that the above reasons establish good cause exists both for an extension of time to submit the record and to postpone the hearing. The Water Boards believe the requested extension of time is essential to preparation of a complete record and that the interests of justice will be served by postponing the hearing so that the Commission and the parties have a complete administrative record available for the hearing process and for consideration of a proposed decision.

The Water Boards appreciate your consideration of this request. Please let me know if you have any questions. I can be reached at (619) 521-3012 or at Catherine.Hagan@waterboards.ca.gov.

Sincerely,



Catherine George Hagan
Senior Staff Counsel

cc: Service List via Commission Drop Box

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 November 18, 2016, I served the:

**SWRCB Request for Extension and Postponement and
Notice of Extension and Postponement Request Approval**
California Regional Water Quality Control Board, San Diego Region,
Order No. R9-2009-0002, 10-TC-11
County of Orange, Orange County Flood Control District,
Cities of Dana Point, Laguna Hills, Laguna Niguel,
Lake Forest, Mission Viejo, and San Juan Capistrano, Co-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 November 18, 2016 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 11/18/16

Claim Number: 10-TC-11

Matter: California Regional Water Quality Control Board, San Diego Region, Order No. R9-2009-0002

Claimants: City of Dana Point
City of Laguna Hills
City of Laguna Niguel
City of Lake Forest
City of Mission Viejo
City of San Juan Capistrano
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.)

Nasser Abbaszadeh, Director of Public Works, *City of San Juan Capistrano*
324 Paseo Adelanto, San Juan Capistrano, CA 92675
Phone: (949) 443-6398
NAbbaszadeh@sanjuancapistrano.org

Hossein Ajideh, *City of San Juan Capistrano*
32400 Paseo Adelanto, San Juan Capistrano, CA 92675
Phone: (949) 234-4413
HAjideh@sanjuancapistrano.org

Joe Ames, *City of Mission Viejo*
200 Civic Center, Mission Viejo, CA 92691
Phone: (949) 470-8419
james@cityofmissionviejo.org

Rebecca Andrews, Associate, *Best Best & Krieger, LLP*
655 West Broadway, 15th Floor, San Diego, CA 92101
Phone: (619) 525-1300
Rebecca.Andrews@bbklaw.com

Socorro Aquino, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522
SAquino@sco.ca.gov

Harmeet Barkschat, *Mandate Resource Services, LLC*
5325 Elkhorn Blvd. #307, Sacramento, CA 95842
Phone: (916) 727-1350
harmeet@calsdrc.com

Ryan Baron, Of Counsel, *Best Best & Krieger LLP*
18101 Von Karman Avenue, Suite 1000, Irvine, CA 92612
Phone: (949) 263-6568
ryan.baron@bbklaw.com

Lacey Baysinger, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
lbaysinger@sco.ca.gov

Shanda Beltran, General Counsel, *Building Industry Legal Defense Foundation*
Building Association of Southern California, 17744 Sky Park Circle, Suite 170, Irvine, CA 92614
Phone: (949) 553-9500
sbeltran@biasc.org

Cindy Black, City Clerk, *City of St. Helena*
1480 Main Street, St. Helena, CA 94574
Phone: (707) 968-2742
cityclerk@cityofstheleena.org

Danielle Brandon, Budget Analyst, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
danielle.brandon@dof.ca.gov

Allan Burdick,
7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

J. Bradley Burgess, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916) 595-2646
Bburgess@mgtamer.com

David Burhenn, *Burhenn & Gest, LLP*
624 S. Grand Ave., Suite 2200, Los Angeles, CA 90017
Phone: (213) 629-8788
dburhenn@burhenngest.com

Gwendolyn Carlos, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

Daniel Carrigg, Deputy Executive Director/Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8222
Dcarrigg@cacities.org

Deborah Carson, Stormwater/Solid Waste Program Manager (Contract), *City of Rancho Santa*

Margarita

22112 El Paseo, Rancho Santa Margarita, CA 92688
Phone: (949) 635-1800
dcarson@cityofrsm.org

Tim Casey, City Manager, *City of Laguna Niguel*

27801 La Paz Road, Laguna Niguel, CA 92677
Phone: (949) 362-4300
tcasey@ci.laguna-niguel.ca.us

Bruce Channing, City Manager, *City of Laguna Hills*

24035 El Toro Road, Laguna Hills, CA 92653
Phone: (949) 707-2611
bchanning@lagunahillsca.gov

Annette Chinn, *Cost Recovery Systems, Inc.*

705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinnrcs@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*

925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Michael Coleman, *Coleman Advisory Services*

2217 Isle Royale Lane, Davis, CA 95616
Phone: (530) 758-3952
coleman@munil.com

Chris Crompton, Deputy Director of Public Works, *Orange County Public Works*

Orange County Environmental Resources, 2301 North Glassell Street, Orange, CA 92865
Phone: (714) 955-0630
chris.crompton@ocpw.ocgov.com

William Curley, *Lozano Smith*

515 S. Figuera Street, Los Angeles, CA 90071
Phone: (213) 929-1066
wcurley@lozanosmith.com

Marieta Delfin, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

Terry Dixon, *City of Laguna Niguel*

30111 Crown Valley Parkway, Laguna Niguel, CA 92677
Phone: (949) 362-4300
tdixon@cityoflagunaniguel.org

James Eggart, *Woodruff, Spradlin & Smart*

555 Anton Boulevard, #1200, Costa Mesa, CA 92626
Phone: (714) 415-1062
JEggart@wss-law.com

Donna Ferebee, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

Rod Foster, City Manager, *City of Laguna Niguel*
30111 Crown Valley Parkway, Laguna Niguel, CA 92677
Phone: (949) 362-4300
rfoster@cityoflagunaniguel.org

Brad Fowler, *City of Dana Point*
33282 Golden Latern, Dana Point, CA 92629
Phone: (949) 248-3554
bfowler@danapoint.org

Susan Geanacou, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

Howard Gest, *Burhenn & Gest, LLP*
624 South Grand Avenue, Suite 2200, Los Angeles, CA 90402
Phone: (213) 629-8787
hgest@burhenngest.com

Dillon Gibbons, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
dillong@csda.net

David Gibson, *San Diego Regional Water Quality Control Board*
9174 Sky Park Court, Suite 100, San Diego, CA 92123-4340
Phone: (858) 467-2952
dgibson@waterboards.ca.gov

Catherine George Hagan, Senior Staff Counsel, *State Water Resources Control Board*
c/o San Diego Regional Water Quality Control Board, 2375 Northside Drive, Suite 100, San Diego, CA 92108
Phone: (619) 521-3012
catherine.hagan@waterboards.ca.gov

Shawn Hagerty, Partner, *Best Best & Krieger, LLP*
San Diego Office, 655 West Broadway, 15th Floor, San Diego, CA 92101
Phone: (619) 525-1300
Shawn.Hagerty@bbklaw.com

Mary Halterman, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Mary.Halterman@dof.ca.gov

Sunny Han, Project Manager, *City of Huntington Beach*
2000 Main Street, Huntington Beach, CA 92648
Phone: (714) 536-5907
Sunny.han@surfcity-hb.org

Dorothy Holzem, Legislative Representative, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
dholzem@counties.org

Justyn Howard, Program Budget Manager, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-1546
justyn.howard@dof.ca.gov

Thomas Howard, Executive Director, *State Water Resources Control Board*
P.O. Box 2815, Sacramento, CA 95812-2815
Phone: (916) 341-5599
thoward@waterboards.ca.gov

Mark Ibele, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Mark.Ibele@sen.ca.gov

Edward Jewik, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-8564
ejewik@auditor.lacounty.gov

Jeremy Jungreis, Attorney, *Rutan & Tucker, LLP*
611 Anton Boulevard, 14th Floor, Costa Mesa, CA 92626
Phone: (714) 338-1882
jjungreis@rutan.com

Jill Kanemasu, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

Anne Kato, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
akato@sco.ca.gov

Anita Kerezsi, *AK & Company*
3531 Kersey Lane, Sacramento, CA 95864
Phone: (916) 972-1666
akcompany@um.att.com

Jay Lal, *State Controller's Office (B-08)*
Division of Accounting & Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0256
JLal@sco.ca.gov

Michael Lauffer, Chief Counsel, *State Water Resources Control Board*
1001 I Street, 22nd Floor, Sacramento, CA 95814-2828
Phone: (916) 341-5183
mlauffer@waterboards.ca.gov

Iain MacMillan, Attorney, *Lozano Smith*
515 S Figueroa St, Suite 750, Los Angeles, CA 90071
Phone: (213) 929-1066
imacmillan@lozanosmith.com

Hortensia Mato, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660

Phone: (949) 644-3000
hmato@newportbeachca.gov

Michelle Mendoza, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

Meredith Miller, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

Andre Monette, Partner, *Best Best & Krieger, LLP*
2000 Pennsylvania NW, Suite 5300, Washington, DC 20006
Phone: (202) 785-0600
andre.monette@bbklaw.com

Geoffrey Neill, Senior Legislative Analyst, Revenue & Taxation, *California State Association of Counties (CSAC)*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
gneill@counties.org

Andy Nichols, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

Adriana Nunez, Staff Counsel, *State Water Resources Control Board*
P.O. Box 100, Sacramento, CA 95812
Phone: (916) 322-3313
Adriana.nunez@waterboards.ca.gov

Arthur Palkowitz, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

Jai Prasad, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

Mark Rewolinski, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

David Rice, *State Water Resources Control Board*
1001 I Street, 22nd Floor, Sacramento, CA 95814
Phone: (916) 341-5161
davidrice@waterboards.ca.gov

Nick Romo, Policy Analyst, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814

Phone: (916) 658-8254
nromo@cacities.org

Omar Sandoval, *Woodruff, Spradlin & Smart*
555 Anton Boulevard, #1200, Costa Mesa, CA 92626
Phone: (714) 415-1049
osandoval@wss-law.com

Richard Schlesinger, *City of Mission Viejo*
200 Civic Center, Mission Viejo, CA 92691
Phone: (949) 470-3079
rschlesinger@cityofmissionviejo.org

Carla Shelton, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 327-6490
carla.shelton@csn.ca.gov

Shane Silsby, Director of Public Works, *County of Orange*
300 North Flower Street, Santa Ana, CA 92703
Phone: (714) 667-9700
shane.silsby@ocpw.ocgov.com

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

Jolene Tollenaar, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 443-411
jolene_tollenaar@mgtamer.com

Evelyn Tseng, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3127
etseng@newportbeachca.gov

Renee Wellhouse, *David Wellhouse & Associates, Inc.*
3609 Bradshaw Road, H-382, Sacramento, CA 95927
Phone: (916) 797-4883
dwa-renee@surewest.net

Tom Wheeler, *City of Lake Forest*
25550 Commercentre Dr., Suite 100, Lake Forest, CA 92630
Phone: (949) 461-3480
twheeler@lakeforestca.gov

Jennifer Whiting, Assistant Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8249
jwhiting@cacities.org

Patrick Whitnell, General Counsel, *League of California Cities*

1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8281
pwhitnell@cacities.org

Julia Woo, Deputy County Counsel, *County of Orange*
Claimant Representative

333 West Santa Ana Blvd, Santa Ana, CA 92702-1379
Phone: (714) 834-3300
Julia.woo@coco.ocgov.com

Robert Woodings, *City of Lake Forest*
25550 Commercenter Dr, Suite 100, Lake Forest, CA 92630
Phone: (949) 461-3480
rwoodings@lakeforestca.gov

Hasmik Yaghobyan, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-9653
hyaghobyan@auditor.lacounty.gov

Lisa Zawaski, Senior Water Quality Engineer, *City of Dana Point*
Dana Point City Hall, 33282 Golden Lantern Street, Public Works Suite 212, Dana Point, CA 92629
Phone: (949) 248-3584
lzawaski@danapoint.org