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**RECEIVED**  
March 29, 2023  
**Commission on  
State Mandates**

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March 29, 2023

Via Drop Box

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

Re: Requests for Extension of Time to File Comments on Draft Proposed Decision and Postponement of Hearing on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016, 11-TC-03

Dear Ms. Halsey:

Pursuant to Cal. Code Regs. tit.2, § 1187.9,<sup>1</sup> I am writing as Claimant Representative in the above-referenced Joint Test Claim to request an extension of time for Claimants to file comments on the Draft Proposed Decision ("DPD") in that matter. Such request is timely in that it is being made before the date set for filing comments or rebuttals. Section 1187.9(a). Also this letter seeks postponement of the May 26, 2023 hearing date for this matter to July 28, 2023, pursuant to Section 1187.9(b).

Your March 13, 2023 letter accompanying the DPD indicates that written comments are due no later than 5:00 p.m. on April 3, 2023. Claimants respectfully request an extension of that deadline to 5:00 p.m. on May 19, 2023 for the following reasons:

- The DPD is 382 pages in length, covering a complex test claim with several issues of first impression for the Commission and the parties. Some of the issues raised in the DPD were not briefed by either Claimants or the Water Boards/Department of Finance, and will require additional legal research in order that Claimants may meaningfully respond.

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<sup>1</sup> All legal authority references are to the California Code of Regulations, unless otherwise stated.

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- The DPD raises not only legal but factual issues which may necessitate obtaining and presenting additional evidence to the Commission. This effort may be further complicated because the subject test claim was prepared and filed in 2011, and individuals with pertinent information and/or evidence may have retired and/or are no longer be employed by Claimants.
- Claimants anticipate that interested parties may also wish to file comments. All interested parties should be given adequate time to do so.
- Counsel involved in preparing the comments will be on pre-planned vacations in April and early May. In particular, I will be out of the country from April 25 through May 10.

This letter also seeks a postponement of the May 26 hearing date to July 28, 2026, since extension of the comment deadline to May 19 will require a postponement of the scheduled hearing date. I note that the current comment deadline of April 3 is only a little more than 7 weeks before the May hearing. Thus, even a short extension of the comment deadline would still require postponement of the hearing date.

I previously contacted counsel for the Water Boards, Catherine Hagan, and have coordinated with her regarding the requested extension date. On March 28, Ms. Hagan filed a request for extension and postponement to the same dates as requested in this letter.

An extension of the comment deadline to May 19 and the hearing to July 28 would be in accord with Commission regulations. Pursuant to Section 1183.6(b), a DPD can be released as late as eight weeks before the hearing date. With three weeks required for comments, *see* Section 1183.6(c), staff is allowed five weeks to review comments and prepare a final proposed decision. Under the schedule proposed by Claimants and the Water Boards, staff would have more than eight weeks to prepare a final proposed decision, leaving two weeks for Commission review prior to the hearing.

The requested extension would not result in prejudice to any party. In particular, the Water Boards also wish to extend the comment deadline to May 19 and postpone the hearing until July 28.

Section 1187.9(b) directs that for “good cause” shown, a request for hearing postponement made more than 15 days before the hearing or where there is a request filed by stipulation of the parties “shall be approved.” Claimants respectfully submit that under those standards, these requests to extend the comment deadline to 5:00 p.m. on May 19, 2023 and to postpone the hearing to July 28, 2023 should be approved.

BURHENN & GEST LLP

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Thank you for your consideration of this request.

I declare under penalty of perjury that the foregoing, signed on March 29, 2023, is true and correct to the best of my personal knowledge, information, or belief.

A handwritten signature in black ink, appearing to read 'D.W. Burhenn', followed by a long, sweeping horizontal line that extends to the right.

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 March 30, 2023, I served the:

- **Notice of Extension Request Approval and Postponement of Hearing issued March 30, 2023**
- **Claimant's Request for Extension of Time and Postponement of Hearing filed March 29, 2023**
- **Water Boards' Request for Extension of Time and Postponement of Hearing filed March 28, 2023**

*California Regional Water Quality Control Board, San Diego Region,  
Order No. R9-2010-0016, 11-TC-03*

California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016, Sections B.2., C., D., F.1.d.1., 2., 4., 7., F.1.f., F.1.h., F.1.i., F.2.d.3., F.2.e.6.e., F.3.a.10., F.3.b.4.a.ii., F.3.d.1.-5., F.4.d., F.4.e., G.1.-5., K.3.a.-c., Attachment E., Sections II.C. and II.E.2.-5., and Sections F., F.1., F.1.d., F.2., F.3.a.-d., and F.6.,  
Adopted November 10, 2010

County of Riverside, Riverside County Flood Control and Water Conservation District, and Cities of Murrieta, Temecula, and Wildomar, 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 March 30, 2023 at Sacramento, California.



Jill L. Magee  
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# COMMISSION ON STATE MANDATES

## Mailing List

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**Claim Number:** 11-TC-03

**Matter:** California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016

**Claimants:** City of Murrieta  
City of Temecula  
City of Wildomar  
County of Riverside  
Riverside County Flood Control and Water Conservation 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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