



March 30, 2023

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Ms. Catherine George Hagan  
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c/o San Diego Regional Water  
Quality Control Board  
2375 Northside Drive, Suite 100  
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*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**Re: Notice of Extension Request Approval and Postponement of Hearing**  
*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

Dear Mr. Burhenn and Ms. Hagan:

On March 28, 2023, the Commission on State Mandates (Commission) received the State Water Resources Control Board's and San Diego Regional Water Quality Control Board's (Water Boards') request for extension of time to file comments on the Draft Proposed Decision, currently due by **5:00 pm on April 3, 2023** and for postponement of the hearing on the above-captioned Test Claim, currently set for **Friday, May 26, 2023**.

Specifically, the request states that a 46-day extension of time to submit comments on the Draft Proposed Decision to May 19, 2023 is required because the Draft Proposed Decision is almost 400 pages in length and proposes to resolve claimants' numerous challenges to at least thirteen categories of issues in the underlying permit. In addition, the request states that due to its complexity and length, evaluation of the Draft Proposed Decision will require considerable staff and attorney time and since the Test Claim involves a permit issued over 12 years ago, San Diego Water Board staff and the assigned attorneys will need to familiarize or refamiliarize themselves with the underlying permit and comments on the 2011 Test Claim, as well as consider prior written comments on similar or identical issues in other pending or recently decided Test Claims. Further, the request states that based on these considerations, additional time is necessary for the Water Boards to carefully evaluate the Draft Proposed Decision and develop thoughtful written comments for submittal to the Commission. Finally, the request states that the Water Boards have conferred with the claimants and understand that claimants intend also to request the same extension of time, to 5:00 pm on May 19, 2023, for filing comments.

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On March 29, 2023, the Commission received the claimants' request for extension of time to file comments on the Draft Proposed Decision, currently due by **5:00 pm on April 3, 2023** and for postponement of the hearing on the above-captioned Test Claim, currently set for **Friday, May 26, 2023**.

Specifically, the request states that a 46-day extension of time to submit comments on the Draft Proposed Decision to May 19, 2023 is required because the Draft Proposed Decision is 382 pages in length, covering a complex test claim with several issues of first impression for the Commission and the parties. In addition, the request states that some of the issues raised in the Draft Proposed Decision were not briefed by either claimants or the Water Boards or Department of Finance, and will require additional legal research in order that the claimants may meaningfully respond. Further, the Draft Proposed Decision raises not only legal but factual issues which may necessitate obtaining and presenting additional evidence to the Commission, which may be further complicated because the subject test claim was prepared and filed in 2011, and individuals with pertinent information and evidence may have retired or are no longer employed by the claimants. Further, the request states that claimants anticipate that interested parties may also wish to file comments and all interested parties should be given adequate time to do so. Also, the request states that counsel involved in preparing the comments will be on pre-planned vacations in April and early May and in particular, the claimants' representative will be out of the country from April 25, 2023 through May 10, 2023. In addition, the request seeks a postponement of the May 26 hearing date to July 28 since extension of the comment deadline to May 19 will require a postponement of the scheduled hearing date. Finally, the request states that the claimants' representative contacted counsel for the Water Boards, Catherine Hagan, and have coordinated with her regarding the requested extension date.

Section 1187.9(a) of the Commission's regulations provide that any party or interested party to a matter may request an extension of time by filing a request with the executive director before the date set for filing of comments or rebuttals with Commission staff on that matter. The request shall fully explain the reasons for the extension, propose a new date for filing, and be certified, filed, and served in accordance with section 1181.3 of these regulations. A party to a matter may request an extension of time that would necessitate rescheduling a hearing, but shall also include a request for postponement of the hearing, pursuant to Section 1187.9(b).

Section 1187.9(b) of the Commission's regulations provide that while postponements are disfavored and pursuant to Government Code section 17530, the executive director has a duty to expedite all matters before the Commission, a request for postponement filed by a party to an article 7 matter until the next regularly scheduled hearing may be approved for good cause. (Cal. Code. Regs., tit. 2 § 1187.9(b)(3)(B).) Circumstances that may indicate good cause include the unavailability of a party, party representative, or witness because of death, illness, or other excusable circumstances and the number and complexity of the issues. (Cal. Code. Regs., tit. 2 § 1187.9 (b)(1)(A), (b)(1)(F).)

Mr. Burhenn and Ms. Hagan

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Therefore, due to the length of the Draft Proposed Decision, the complexities of the issues, and the age of the underlying permit, a 46-day extension from the original due date is approved for all parties, interested parties, and interested persons, and comments on the Draft Proposed Decision are now due by **5:00 pm on May 19, 2023**. Further, based on the forgoing reasons and the unavailability of the claimant's representative for a portion of April and May, a postponement of the hearing to the next regularly scheduled hearing is approved. This matter is now set for hearing on **Friday, July 28, 2023**.

Sincerely,

A handwritten signature in cursive script, appearing to read "Heather Halsey".

Heather Halsey  
Executive Director

## 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.



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# COMMISSION ON STATE MANDATES

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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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