



## State Water Resources Control Board

**RECEIVED**  
December 04, 2018  
**Commission on  
State Mandates**

December 4, 2018

### VIA DROP BOX

Heather Halsey  
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*California Regional Water Quality Control Board, San Diego Region, Order No. R9-2017-0077, Sections A.1, A.3, and A.5, 17-TC-05, City of San Juan Capistrano and County of San Diego, Claimants*

### REQUEST FOR 38-DAY EXTENSION OF TIME TO SUBMIT COMMENTS AND ADMINISTRATIVE RECORD(S)

Dear Ms. Halsey:

By letter dated September 21, 2018, the Commission on State Mandates (Commission) issued a Notice of Complete Test Claim, Schedule for Comments, Request for Administrative Record and Notice of Tentative Hearing Date (Notice). This Test Claim is tentatively set for hearing before the Commission on March 26, 2021.

The California Regional Water Quality Control Board (San Diego Water Board) issued Order No. R9-2017-0077 to implement statewide requirements known as the "Trash Amendments," adopted in 2015 by the State Water Resources Control Board (State Water Board). Pursuant to the Notice, comments in this matter were initially due on or before October 22, 2018. In addition, through the Notice, the Commission requests that the Water Boards provide official administrative records of Order No. R9-2017-0077, also on or before October 22, 2018. On October 11, 2018, the Commission approved the San Diego Water Board and the State Water Board (collectively Water Boards) request for extension of time to file comments and to submit administrative records for Order No. R9-2017-0077. Comments and the administrative records are now due **December 21, 2018**.

When the Water Boards filed their prior extension request, the only other Test Claim challenging a regional water board order implementing the State Water Board's Trash Amendments had been filed by the City of Brea, within the jurisdiction of the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board). Since that time, more than 18 test claims challenging the Santa Ana Water Board's order have been noticed by the Commission. Responses to most of those test claims together with the administrative records are due **January 28, 2019**.

The Water Boards request a thirty-eight (38) day extension until **January 28, 2019**, to coincide with the due date for responses and administrative records in the numerous test claim proceedings challenging the Santa Ana Water Board's order implementing the Trash Amendments. As stated previously, the Water Boards intend to coordinate efforts to analyze the merits of this Test Claim and develop written comments. The San Diego Water Board and Santa Ana Water Board issued separate orders, but both orders implement the State Water Board's Trash Amendments and the State Water Board is party to both the San Diego and Santa Ana Water Boards' test claim proceedings. While the San Diego and Santa Ana Water Board test claims are not consolidated, additional time to evaluate the merits of the Test Claim in a coordinated manner with other test claims will result in more complete and thorough written comments. And, as previously stated, compilation of administrative records is time and resource intensive, particularly here where the San Diego Water Board has not previously prepared a record for development and adoption of Order No. R9-2017-0077. The Water Boards anticipate needing additional time to prepare complete records.

Section 1187.9, subdivision (a) of the Commission's regulations provides that as 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, a request for extension of time to file comments on a test claim shall be approved.<sup>1</sup>

The Water Boards believe the circumstances described above warrant approval of the requested extension. The extension also complies with the considerations in section 1187.9, subdivision (a). The hearing, tentatively set for March 26, 2021, will not be affected if the request is granted. Claimants' rebuttal comment deadline is currently established as 30 days following submittal of the Water Boards' comments. Therefore, it will not be necessary for Claimants to seek an extension just because one is granted to the Water Boards. Under these circumstances, the Water Boards do not believe that any party will be prejudiced if the requested extension is granted and aware of no other good cause for denial of this request. For all of these reasons, the Water Boards request that the comment and record deadline be extended 38 days until **January 28, 2019**.

The Water Boards appreciate your consideration of this request. I can be reached at (619) 521-3012 or by e-mail at [Catherine.Hagan@waterboards.ca.gov](mailto:Catherine.Hagan@waterboards.ca.gov) if you have any questions.

Sincerely,



Catherine George Hagan  
Attorney IV

cc: Service List [via Commission Drop Box]

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<sup>1</sup> While section 1187.9, subdivision (a) does not specifically address extensions of time for submitting administrative records, the same reasoning should apply. Extending the time to submit administrative records concurrently with written comments will not result in postponement of a hearing and would not result in prejudice to any party.

**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.

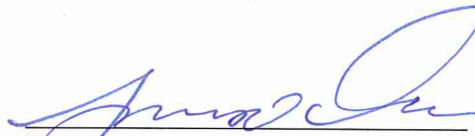
On December 6, 2018, I served the:

- **Notice of Extension Request Approval (Finance) issued December 6, 2018**
- **Notice of Extension Request Approval (SWRCB and SDRWQCB) issued December 6, 2018**
- **Finance's Request for Extension of Time filed December 5, 2018**
- **SWRCB's and SDRWQCB's Request for Extension of Time filed December 4, 2018**

*California Regional Water Quality Control Board, San Diego Region,  
Order No. R9-2017-0077, Sections A.1, A.3, and A.5, 17-TC-05  
City of San Juan Capistrano and County of San Diego, 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 December 6, 2018 at Sacramento, California.



Lorenzo Duran  
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# COMMISSION ON STATE MANDATES

## Mailing List

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**Claim Number:** 17-TC-05

**Matter:** California Regional Water Quality Control Board, San Diego Region, Order No. R9-2017-0077, Sections A.1, A.3, and A.5

**Claimants:** City of San Juan Capistrano  
County of San Diego

### 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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