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State Water Resources Control Board

RECEIVED
January 18, 2019
**Commission on
State Mandates**

January 18, 2019

VIA COMMISSON DROP BOX

Heather Halsey
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Commission on State Mandates
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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 60-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, Schedule for Comments, Request for Administrative Record(s) 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 Region (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 requested that the San Diego Water Board and State Water Board (collectively Water Boards) provide official administrative records of Order No. R9-2017-0077. The Commission approved the Water Boards' first and second requests for extensions of time to file comments and submit the administrative records. In the last Notice of Approval, the Commission established a filing deadline of January 28, 2019, coinciding, at the Water Boards' request, with the comment and record deadline established in the numerous test claim matters challenging the California Regional Water Quality Control Board, Santa Ana Region's (Santa Ana Water Board) similar Orders implementing the statewide Trash Amendments.

The Water Boards request the Commission grant an additional extension of 60 days to allow the Water Boards to complete their comments and development of the relevant administrative records for this Test Claim. If granted, the new deadline for filing will be March 29, 2019. The State Water Board and Santa Ana Water Board are likewise requesting an extension until March 29, 2019, in the Santa Ana test claims (see filing dated January 18, 2019, in 17-TC-07 through 17-TC-28). The Water Boards continue to believe that alignment of filing deadlines as

FELICIA MARCUS, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

between the San Diego and Santa Ana Region Test Claims is beneficial as the underlying orders implement the State Water Board's Trash Amendments and the State Water Board is a party in both regional water board test claim proceedings.

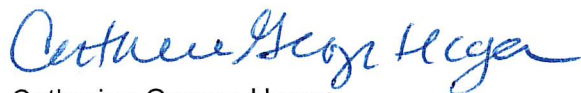
Additional time is needed for the San Diego Water Board and State Water Board to fully evaluate the merits of this Test Claim and to complete written comments and the development of the proper administrative records. As the assigned attorney for this Test Claim, my competing workload on other high priority administrative and litigation matters has hindered my ability to focus the necessary time on development of comments and the administrative records. Further, the Water Boards are coordinating consideration of issues with the Santa Ana Water Board to prepare complete and thorough written comments and development of administrative records. With the intervening holidays, it has been especially challenging to coordinate efforts among involved staff and counsel.

Section 1187.9, subdivision (a) of the Commission's regulations provides that as long as 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.¹

The Water Boards believe the circumstances described above warrant approval of the requested additional extension. The extension also complies with the considerations set forth in California Code of Regulations, title 2, 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 the 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 are 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 for this Test Claim be extended 60 days until **March 29, 2019**.

The Water Boards appreciate your consideration of this request. I can be reached at (619) 521-3021 or by email at Catherine.Hagan@waterboards.ca.gov if you have any questions.

Sincerely,



Catherine George Hagan
Attorney IV

cc: Service List [Via Commission Drop Box]

¹ 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 in this test claim proceeding.

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 January 23, 2019, I served the:

- **Notice of Extension Request Approval for the Following Matters issued January 23, 2019**
- **SWRCB's and SDRWQCB's Request for Extension of Time filed January 18, 2019**
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 January 23, 2019 at Sacramento, California.



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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/9/19

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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