



November 21, 2018

Ms. Erika Li
Department of Finance
915 L Street, 10th Floor
Sacramento, CA 95814

Ms. Teresita Sablan
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814

And Parties, Interested Parties, and Interested Persons (See Mailing List)

RE: Notice of Limited Extension Request Approval

*Water Code Section 13383(a) Phase I MS4 Trash Order Issued to City of Tustin,
Santa Ana Regional Water Quality Control Board, Effective June 2, 2017, 17-TC-21
City of Tustin, Claimant*

Dear Ms. Li and Ms. Sablan:

On November 19, 2018, the Commission on State Mandates (Commission) received the State Water Resources Control Board's and the Santa Ana Regional Water Quality Control Board's (Water Boards') request for an extension of time to file comments and submit the official administrative record(s) on 18 Test Claims (17-TC-07 to 17-TC-24). With respect to Test Claim 17-TC-07, the Water Boards previously requested a 60-day extension of time to file written comments and to submit the official administrative record on the Phase I MS4 Trash Order at issue in that Test Claim. The Commission granted the request in 17-TC-07, extending the deadline to December 28, 2018.

On October 25 and 26, 2018, the Commission provided notice that 17 additional Test Claims on Phase I MS4 Trash Orders were complete (17-TC-08 to 17-TC-24) and comments and the Water Boards' official administrative records for those trash orders are currently due November 26, 2018. The Water Boards now request an extension of time to file comments and submit the administrative record(s) for all 18 Test Claims to February 25, 2019 (seeking a 59-day extension in 17-TC-07, and a 90-day extension in 17-TC-08 to 17-TC-24).

The Water Boards' request for an extension of time for Test Claims 17-TC-07 to 17-TC-24 is based on the following reasons:

- The Water Boards intend to coordinate efforts to analyze the merits of the Test Claims and develop written comments. In developing comments on the Test Claims, the Water Boards also wish to consider the merits of the City of San Juan Capistrano and County of San Diego's challenge to the San Diego Board's Order implementing the Trash Amendments in 17-TC-05 and other test claims challenging similar Regional Board orders. Additional time to evaluate the merits of the Test Claims in a coordinated manner will result in more complete and thorough written comments.
- Compilation of the administrative records is time and resource intensive, since the Water Boards have not previously prepared a record for the development and adoption of the Order.
- Analyzing the merits of the 18 Test Claims will require substantial attorney and staff time and there are competing work priorities associated with permitting and cleanup matters,

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basin plan amendments, preparation for board meetings, as well as previously planned vacations during the holiday season, which limit staff availability to work on test claim matters.

On November 20, 2018, the Commission also received the Department of Finance's (Finance's) request for an extension of time to file comments on 17 of those Test Claims (17-TC-08 to 17-TC-24) to January 25, 2019 (seeking a 60-day extension of the current due date of November 26, 2018). Finance's request for an extension of time is due to workload related to the preparation of the 2019-2020 Governor's Budget.

Since these Test Claims have not been consolidated, this response singly addresses the above-captioned Test Claim, **17-TC-21**. Section 1187.9(a) of the Commission's regulations provide 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.

However, to align the due dates of all 18 Test Claims, a limited extension of 60 days is approved. Therefore, Water Boards' comments and the official administrative record for 17-TC-21, and Finance's comments on 17-TC-21, are now due **January 28, 2019**. The claimant's rebuttal comments are now due 30 days from the service of the Water Boards' comments and administrative record(s) and from service of Finance's comments.

This matter remains tentatively set for hearing on **May 27, 2022**.

Sincerely,

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 November 21, 2018, I served the:

- **Notice of Limited Extension Request Approval issued November 21, 2018**
- **Department of Finance's (Finance's) Request for Extension of Time filed November 20, 2018**
- **State Water Resources Control Board (SWRCB's) and Santa Ana Regional Water Quality Control Board's (SARWQCB's) Request for Extension of Time filed November 19, 2018**

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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 21, 2018 at Sacramento, California.



Jill L. Magee
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/16/18

Claim Number: 17-TC-21

Matter: Water Code Section 13383(a) Phase I MS4 Trash Order Issued to City of Tustin, Santa Ana Regional Water Quality Control Board, Effective June 2, 2017

Claimant: City of Tustin

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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