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MATTHEW RODRIGUEZ
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State Water Resources Control Board

RECEIVED
November 16, 2017
**Commission on
State Mandates**

Via Drop Box

November 16, 2017

Heather Halsey, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Subject: Regional Water Board Request to Extend December 11, 2017, Briefing Date for Response to Test Claim 10-TC-03

Dear Ms. Halsey:

The San Francisco Bay Regional Water Quality Control Board (Regional Water Board) submits this response to clarify some confusion in the Commission's November 15, 2017 correspondence and renews its request for an extension of the deadline to submit the administrative record for Order No. R2-2015-0049 and comments on Test Claim 16-TC-03.

There have been multiple gaps in communication relating to this test claim. Most recently, the Commission's November 15 response appears to reflect the understanding that the Regional Water Board's November 9, 2017 request for an extension originated from the State Water Resources Control Board (State Board). In addition, the November 15, 2017 response makes incorrect assumptions about the process for approval of permits adopted by the Regional Water Board.

To clarify, the November 9 letter was sent by the Regional Water Board's counsel, not the State Board, notwithstanding the State Board letterhead. The Regional Water Board apologizes for any confusion on this point. Next, Order No. R2-2015-0049 was not and did not need to be approved by the State Board. Regional Water Board-issued permits are final once the Regional Water Board has adopted them, and in the absence of objections from the federal Environmental Protection Agency, become effective on the date specified on the permit. In this case, Order No. R2-2015-0049 was adopted on November 19, 2015, and became effective on January 1, 2016. Parties aggrieved by a Regional Water Board decision may, pursuant to Water Code section 13320, petition the State Board to review that decision. Multiple permittees petitioned the adoption of Order No. R2-2015-0049 to the State Board, but the State Board has not ruled on their petitions nor held any hearings; the permit itself remains in effect pending State Board's review.

The Regional Water Board reiterates its request for an extension of the deadline to submit comments and prepare the administrative record for Order No. R2-2016-0049. Requests for extensions of time that fully explain the reasons for the extension, do not require postponement of the hearing, and do not prejudice the parties, shall be granted if there is no other good reason for denial. (Cal. Code Regs., tit. 2, § 1187.9, subd. (a).)

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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Several factors justify the Regional Water Board's request for an extension. As noted in our November 9, 2017 request, the holidays are approaching and multiple key staff will be out of the office. In addition, there will be a hearing on Monday, November 20, 2017, by a panel of the Third District Court of Appeals on test claims relating to the San Diego municipal stormwater permit, involving issues substantially similar to those in Test Claim 16-TC-03. The Regional Water Board suggests that all parties may benefit from guidance from the Third District Court of Appeals before submitting comments on Test Claim 16-TC-03. Accordingly, the Regional Water Board requests an extension of time until 30 days after the date of the Court of Appeals decision.

Thank you for your consideration of the Regional Water Board's requests.

Sincerely,



Marnie Ajello
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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.

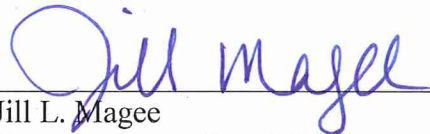
On November 21, 2017, I served the:

- **Notice of *Limited* Extension of Time to Comment and Provide the Administrative Records Requested issued November 21, 2017**
- **San Francisco Bay Regional Water Quality Control Board Request for Extension of Time filed November 16, 2017**

*California Regional Water Quality Control Board, San Francisco Bay Region,
Order No. R2-2015-0049, 16-TC-03
City of Union City, Claimant*

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, 2017 at Sacramento, California.



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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 11/21/17

Claim Number: 16-TC-03

Matter: California Regional Water Quality Control Board, San Francisco Bay Region,
Order No. R2-2015-0049

Claimant: City of Union City

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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