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MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

RECEIVED
October 10, 2018
**Commission on
State Mandates**

October 10, 2018

VIA DROP BOX

Heather Halsey
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Commission on State Mandates
980 Ninth Street, Suite 300
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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 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 September 25, 2020.

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). Other Regional Water Boards likewise issued orders to implement the statewide Trash Amendments at or around the same time as the San Diego Water Board Order was issued.¹ Pursuant to the Notice, comments in this matter are 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.

The San Diego Water Board and the State Water Board (collectively Water Boards) intend to coordinate efforts to analyze the merits of the Test Claim and develop written comments. In developing comments on this Test Claim, the Water Boards also wish to consider the merits of the City of Brea's challenge to the Santa Ana Board's Order implementing the Trash Amendments in 17-TC-07 and other test claims challenging similar Regional Water Board

¹ We note there is another pending test claim in 17-TC-07 challenging a similar order issued by the California Regional Water Quality Control Board, Santa Ana Region. Comments are currently due October 29, 2018.

orders, if any have been filed. Additional time to evaluate the merits of the Test Claim in a coordinated manner will result in more complete and thorough written comments. The Water Boards also request a 60-day extension of time to submit requested administrative records. 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 that more time will be needed 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.²

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 September 25, 2020, 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 60 days until **December 21, 2018**.

The Water Boards appreciate your consideration of this request. I can be reached at (916) 322-3313 or by e-mail at Adriana.Nuñez@waterboards.ca.gov if you have any questions.

Sincerely,



Adriana Nunez
Attorney

cc: Service List [via Commission Drop Box]

² 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.

ACN/jlg

October 10, 2018

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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 October 11, 2018, I served the:

- **Notice of Extension Request Approval issued October 11, 2018**
- **State Water Resources Control Board's (SWRCB's) and San Diego Regional Water Quality Control Board's (SDRWQCB's) Request for Extension of Time filed October 10, 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 October 11, 2018 at Sacramento, California.



Jill L. Magee
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/11/18

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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