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July 11, 2023

Via Drop Box

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

Re: Request for Extension of Time to File Comments on Draft Proposed Decision in California Regional Water Quality Control Board, San Region, Order No. R9-2009-0002, 10-TC-11

Dear Ms. Halsey:

Pursuant to Cal. Code Regs. tit.2, § 1187.9,¹ I am writing as Claimant Representative for Claimants in the above-referenced Joint Test Claim, to request an extension of time to file comments on the Draft Proposed Decision in the above-referenced matter. Such request is timely in that it is being made before July 21, 2023, the date set for filing comments or rebuttals. Cal. Code Regs. tit. 2, § 1187.9(a). Claimants respectfully request an extension of that deadline to **August 25, 2023 at 5:00 pm**. In light of this requested extension, Claimants further request that the hearing date be continued to **October 27, 2023**.

Claimants make this request for the following reasons:

- The Staff Recommendation and Draft Proposed Decision is 378 pages in length, covering a complex test claim with many issues for the Commission and the parties. Some of the issues raised in the Draft Proposed Decision were not briefed by either Claimants or the Water Boards/Department of Finance, and will require additional legal research in order that Claimants may meaningfully respond.

¹ All legal authority references are to the California Code of Regulations, unless otherwise stated.

Ms. Heather Halsey

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- The Draft Proposed Decision raises not only legal but factual issues which may necessitate obtaining and presenting additional evidence to the Commission. This effort may be further complicated by the fact that the subject test claim was prepared and filed in 2011, and individuals with pertinent information and/or evidence may have retired and/or are no longer employed by Claimants.
- Counsel for Claimants has spoken with counsel for the Water Boards and understands that the Water Boards may also seek an extension of time to submit comments to August 25, 2023. Claimants anticipate that other interested parties, including claimants in other pending test claims involving MS4 permits, may also wish to file comments. Claimants have no objection to a request for an extension from the Water Boards and believe all parties should be given the same extension to the same date.
- Counsel involved in preparing the comments has several other matters in which briefs and comments must be filed by July 28, 2023, such that it will be difficult to properly prepare the comments in this matter without this requested extension of time.
- The requested extension would not result in prejudice to any party. The record in this matter has been closed since January 6, 2017, and the Water Boards and the Department of Finance, as well as other interested parties, would also receive additional time to comment.

Section 1187.9(a) directs 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.” Cal. Code Regs. tit. 2, § 1187.9(a). Claimants respectfully submit that there is no prejudice to any party and no reason for denial, and therefore the request to extend the comment deadline to August 25, 2023 at 5:00 p.m. and to continue the hearing to October 27, 2023, should be approved.

Thank you for your consideration of this request.

I declare under penalty of perjury that the foregoing, signed on July 11, 2023, is true and correct to the best of my personal knowledge, information, or belief.



David W. Burhenn
Claimant Representative
Address, phone and e-mail set forth above

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 July 14, 2023, I served the:

- **Current Mailing List dated July 6, 2023**
- **Notice of Extension Request Approval and Postponement of Hearing issued July 14, 2023**
- **Claimants' Request for Extension of Time and Postponement of Hearing filed July 11, 2023**

California Regional Water Quality Control Board, San Diego Region, Order No. R9-2009-0002, Sections B.2.; C.; D.; F.1.d.; F.1.d.7.i.; F.1.f.; F.1.h.; F.3.a.4.c.; F.3.d.; F.4.b.; F.4.d.; F.4.e.; G.6.; I.; J.; K.1.b.4.n.; and, Only as They Relate to the Reporting Checklist, Section K.3.a. and Attachment D,¹ Adopted December 16, 2009, 10-TC-11

Cities of Dana Point, Laguna Hills, Laguna Niguel, Lake Forest, Mission Viejo, San Juan Capistrano, the County of Orange, and the Orange County Flood Control District, 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 July 14, 2023 at Sacramento, California.

David Chavez

David Chavez
Commission on State Mandates
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¹ Government Code section 17553(b)(1) requires test claims to identify the specific sections of the executive order alleged to contain a mandate and a detailed description of the new activities mandated by the state. Only the sections indicated in this caption, and Section K.3.a. and Attachment D only as they relate to the reporting checklist, have been properly pled.

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 7/6/23

Claim Number: 10-TC-11

Matter: California Regional Water Quality Control Board, San Diego Region, Order No. R9-2009-0002, Sections B.2.; C.; D.; F.1.d.; F.1.d.7.i.; F.1.f.; F.1.h.; F.3.a.4.c.; F.3.d.; F.4.b.; F.4.d.; F.4.e.; G.6.; I.; J.; K.1.b.4.n.; and, Only as They Relate to the Reporting Checklist, Section K.3.a. and Attachment D, Adopted December 16, 2009

Claimants: City of Dana Point
City of Laguna Hills
City of Laguna Niguel
City of Lake Forest
City of Mission Viejo
City of San Juan Capistrano
County of Orange
Orange County Flood Control District

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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