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Received
November 15, 2011
Commission on
State Mandates



Edmund G. Brown Jr.
Governor

November 14, 2011

VIA E-FILE

Nancy Patton, Acting Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Patton:

LOS ANGELES REGION WATER PERMIT – VENTURA COUNTY, 11-TC-01: REQUEST FOR ADDITIONAL 45-DAY EXTENSION OF TIME TO SUBMIT WRITTEN COMMENTS

This is a request for an additional 45-day extension of time in which to submit comments in the above-noted matter. Currently, the California Regional Water Quality Control Board, Los Angeles Region's (Los Angeles Water Board) comments are due on December 9, 2011. The September 8, 2011 Notice of Complete Test Claim Filing and Schedule for Comments provides that requests for extensions of time may be filed in accordance with California Code of Regulations, title 2, sections 1183.01, subdivision (c), and 1181.1, subdivision (g). As explained herein, the Los Angeles Water Board believes that good cause exists for granting an additional 45-day extension of time, which would extend the deadline for submitting comments to **January 23, 2012**.

California Code of Regulations, title 2, section 1183.01, subdivision (c), provides that a party may request an extension of time before the date set for the filing of comments. (Cal. Code Regs., tit. 2, § 1183.01, subd. (c)(1).) The Executive Director may approve a request filed by a state agency for good cause. (*Id.*, at § 1183.01, subd. (c)(1)(B).) The applicable regulations define "good cause" to include, but not be limited to, the following factors:

(1) the number and complexity of the issues raised; (2) a party is new to the case, or other counsel is needed; (3) the individual responsible for preparing the document has other time-limited commitments during the affected period; (4) the individual responsible for appearing at the hearing has other time-limited commitments; (5) illness of a party; (6) a personal emergency; (7) a planned vacation that cannot reasonably be rearranged; (8) a pending public records act request; and (9) any other factor, which in the context of a particular claim constitutes good cause. Good cause may be established by a specific showing of other obligations involving deadlines that as a practical matter preclude filing the document by the due date without impairing quality.

(Cal. Code Regs., tit. 2, § 1181.1, subd. (h).)

California Environmental Protection Agency

Ms. Nancy Patton

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November 14, 2011

The Test Claim filed by the Claimants concerns permit requirements established in Los Angeles Water Board Order No. R4-2010-0108 adopted on July 8, 2010. The Test Claim raises numerous and complex issues specific to Order No. R4-2010-0108. The Claimants contend that Order No. R4-2010-0108 includes requirements that are "more stringent and exceed the requirements of federal law," and that were not included in earlier versions of the challenged national pollutant discharge elimination system permit. They seek a determination that these requirements are unfunded state mandates for which they should receive reimbursement pursuant to Article XIII B, section 6, of the California Constitution.

The Los Angeles Water Board requests an additional 45-day extension of time in which to submit comments analyzing the merits of the Test Claim for the reasons that follow. Analyzing the merits of the Test Claim will require considerable staff and attorney time to research and provide comments on these issues when both the Los Angeles Water Board and the State Water Resources Control Board's (State Water Board) Office of Chief Counsel are still short-staffed due to the state's budget shortfall and permanent reductions in staff. As the primary attorney responsible for preparing the Los Angeles Water Board's response in this matter, I also have expanded responsibilities, which have constrained my ability to work on this matter and file comments on the Test Claim by December 9, 2011. The majority of my time is devoted to assisting Los Angeles Water Board staff in preparing priority orders for consideration by both the Los Angeles Water Board and State Water Board at their monthly meetings. In December, I will be advising the Los Angeles Water Board and State Water Board on multiple priority items, most of which are controversial, and will need time to, *inter alia*, prepare responses to public comments and make other preparations beforehand. Preparation for these monthly board meetings takes a substantial amount of attorney time leading up to the meeting, especially when controversial items appear on the agenda. Accordingly, I will not have sufficient time to prepare comments on the Test Claim by December 9. Extending the deadline for comments on the Test Claim will provide me with the necessary time to consult with Los Angeles Water Board staff and prepare the Board's response on this Test Claim, as well as tend to my other legal responsibilities. Finally, I have spoken with counsel for the Claimants, and counsel is agreeable to my requested extension for time.

Therefore, for the reasons set forth above, the Los Angeles Water Board respectfully requests that the due date for written comments on the Test Claim be extended 45 days to **January 23, 2012**. The Los Angeles Water Board believes that good cause exists to allow the Executive Director to grant this requested extension and appreciates your consideration of this request.

Sincerely,

Jennifer L. Fordyce

Jennifer L. Fordyce
Staff Counsel

COMMISSION ON STATE MANDATES

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**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Solano 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 16, 2011, 2011, I served the:

California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) Request for Extension of Time

Los Angeles Region Water Permit – Ventura County, 11-TC-01

California Regional Water Quality Control Board, Los Angeles Region,

Order No. R4-2010-0108, NPDES Permit No. CAS00-4002, Adopted July 8, 2010.

County of Ventura and Ventura County Watershed Protection District, Co-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 November 16, 2011 at Sacramento, California.



Heidi J. Palchik

Commission on State Mandates

Original List Date: 8/26/2011
Last Updated: 11/16/2011
List Print Date: 11/16/2011
Claim Number: 11-TC-01
Issue: Los Angeles Region Water Permit - Ventura County

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

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, § 1181.2.)

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