



State Water Resources Control Board

May 16, 2025

RECEIVED
May 16, 2025
**Commission on
State Mandates**

VIA DROP BOX

Juliana Gmur, Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

Re: *San Diego Regional Water Quality Control Board Order No. R9-2007-0001, Permit CAS0108758, Parts D.3.a.(3)(b)(iii), D.5.a.(1), D.5.a.(2), D.5.b.(1)(a), D.5.b.(1)(b)(iii-vi), D.5.b.(1)(c), D.5.b.(1)(d), D.5.b.(2), D.5.b.(3), E.2.f., E.2.g., F.1, F.2., F.3., I.1., I.2., I.5., J.3.a.(3)(c)(iv)-(viii), (x)-(xv), the first sentence of L.1. as it applies to the newly mandated activities, and L.1.a.(3)-(6), 07-TC-09-R County of San Diego, Cities of Carlsbad, Del Mar, Imperial Beach, Lemon Grove, Poway, San Marcos, Santee, Solana Beach, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, San Diego, and Vista, Claimants*

Comments on Revised Draft Proposed Decision and Parameters and Guidelines

Dear Director Gmur:

The Commission on State Mandates (Commission) issued a Revised Draft Proposed Decision and Parameters and Guidelines, Schedule for Comments, and Notice of Hearing in this matter on March 20, 2025. On April 8, 2025, the Commission issued a Notice of Limited Extension Request Approval and Notice of Postponement of Hearing granting claimants until May 16, 2025, to submit written comments and rescheduling the hearing for July 25, 2025. Thereafter, the Commission granted the State Water Resources Control Board's (State Water Board) and the California Regional Water Quality Control Board for the San Diego Region's (San Diego Water Board) (collectively, Water Boards) request for an extension of time to file comments until May 16, 2025.

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

In accordance with the extension, the Water Boards submit the following limited comments on the Revised Draft Proposed Decision and Parameters and Guidelines (Revised Draft) in the above-captioned matter.

The Water Boards agree with the Commission staff's conclusion that the "claimants' proposed RRMs are overbroad and not limited to the mandated activities, and there is no evidence that the proposed unit costs reasonably represent the costs mandated by the state for all eligible claimants for only to comply with the higher levels of service activities the Commission approved for reimbursement." (Revised Draft, p. 26.) The Commission staff explain: "An RRM, as defined in Government Code section 17518.5, is generally a formula or unit cost adopted by the Commission for the reimbursement of an approved activity, so that the claimants do not need to provide detailed documentation of the actual costs to the State Controller's Office for its review and audit of the claimants' reimbursement claims. Rather the Controller simply reviews the claimant's application of the RRM to the costs claimed." (Revised Draft, pp. 25-26.)

In the Revised Draft, the Commission staff further explain that the time period for reimbursement in this matter begins with the January 24, 2007 test claim permit effective date. It further recognizes that the San Diego Water Board allowed individual claimants to postpone implementation of numerous mandated permit provisions until March 24, 2008.¹ (Revised Draft, p. 60.) Under the general approach to reimbursement, claimants would be required to submit documentation of actual costs to the State Controller's Office for review and audit, thereby ensuring reimbursement only for actual performance of reasonably necessary activities to implement mandated permit provisions. In contrast, under the RRM approach described above, reliance upon the permit effective date to initiate the time period for reimbursement here results in the likelihood that *all* claimants could receive reimbursement beginning January 24, 2007, even if *not a single* claimant commenced implementation of any reasonably necessary activities to perform mandated permit provisions until March 24, 2008.

As the Water Boards have previously pointed out, the numerous flaws with the proposed RRMs underscore that the alternative RRM approach is not well-suited to reasonably reimburse Claimants for implementation of the mandated permit provisions. The prospect that the proposed RRMs, if approved, would unreasonably reimburse claimants for a period of up to 425 days from the permit effective date, regardless of whether they actually performed any mandated activities during this period, further illustrates that the RRM approach is unsupported and inappropriate in this context.

For the above reasons and the reasons stated in prior comments, the Water Boards urge the Commission to adopt the Revised Draft without revision and require claimants

¹ By Addendum dated December 12, 2007, claimants were allowed to delay implementation of numerous permit provisions until March 24, 2008.

to submit documentation of actual costs for review and audit by the State Controller's Office.

The above comments are true and correct to the best of my knowledge, information and belief.

Sincerely,

A handwritten signature in blue ink that reads "Catherine George Hagan". The signature is fluid and cursive, with the first name "Catherine" being the most prominent.

Catherine George Hagan
Attorney IV
Office of Chief Counsel
State Water Resources Control Board

cc: Service List for 07-TC-09-R via Commission Drop Box

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.

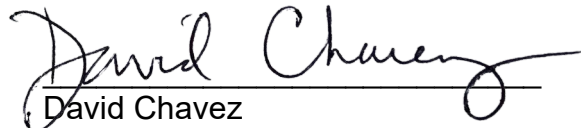
On May 19, 2025, I served the:

- **Current Mailing List dated April 21, 2025**
- **Claimants' Comments on the Revised Draft Proposed Decision and Parameters and Guidelines filed May 16, 2025**
- **San Diego Unified Port District and San Diego County Regional Airport Authority Comments on the Revised Draft Proposed Decision and Parameters and Guidelines filed May 16, 2025**
- **Water Boards' Comments on the Revised Draft Proposed Decision and Parameters and Guidelines filed May 16, 2025**

San Diego Regional Water Quality Control Board Order No. R9-2007-0001, Permit CAS0108758, Parts D.3.a.(3)(b)(iii), D.5.a.(1), D.5.a.(2), D.5.b.(1)(a), D.5.b.(1)(b)(iii-vi), D.5.b.(1)(c), D.5.b.(1)(d), D.5.b.(2), D.5.b.(3), E.2.f., E.2.g., F.1., F.2., F.3., I.1., I.2., I.5., J.3.a.(3)(c)(iv)-(viii), (x)-(xv), the first sentence of L.1. as it applies to the newly mandated activities, and L.1.a.(3)-(6), 07-TC-09-R County of San Diego, Cities of Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, and Vista, 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 May 19, 2025 at Sacramento, California.



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Mailing List

Last Updated: 4/21/25

**Claim
Number:** 07-TC-09-R

Matter: San Diego Regional Water Quality Control Board Order No. R9-2007-0001 Permit CAS0108758 Parts D.1.d.(7)-(8), D.1.g., D.3.a.(3), D.3.a.(5), D.5, E.2.f, E.2.g, F.1, F.2, F.3, I.1, I.2, I.5, J.3.a.(3)(c)iv-viii & x-xv, and L.

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City of Encinitas
City of Escondido
City of Imperial Beach
City of La Mesa
City of Lemon Grove
City of National City
City of Oceanside
City of Poway
City of San Diego
City of San Marcos
City of Santee
City of Solana Beach
City of Vista

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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