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File No. 93939.30001

July 9, 2025

VIA EMAIL

Juliana F. Gmur
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Commission on
State Mandates
Filed Date
07/09/25

Re: County of San Diego, Cities of Carlsbad, Del Mar, Imperial Beach, Lemon Grove, Poway, San Marcos, Santee, Solana Beach, Chula Vista, Coronado, El Cajon, Encinitas, Escondido, La Mesa, National City, Oceanside, San Diego, and Vista Comments to Revised Draft Proposed Decision and Parameters and Guidelines, Test Claim 07-TC-09-R, Request for Postponement Pursuant to 2 Cal. Code Regs., § 1187.9(b)

Dear Ms. Gmur:

The County of San Diego and the Cities of Carlsbad, Del Mar, Imperial Beach, Lemon Grove, Poway, San Marcos, Santee, Solana Beach, Chula Vista, Coronado, El Cajon, Encinitas, Escondido, La Mesa, National City, Oceanside, San Diego, and Vista (collectively, “Municipal Claimants”) respectfully request postponement of the hearing set for July 25, 2025 relating to the Revised Draft Proposed Decision and Parameters and Guidelines for Test Claim 07-TC-09-R (“Revised Proposed Decision”). The Municipal Claimants appreciate the time and significant work that the Commission on State Mandates (“Commission”) has invested over the past many years on Test Claim 07-TC-09-R (“Test Claim”).¹ The Municipal Claimants respectfully request that this matter be set for hearing at either the October 24, 2025 or December 5, 2025 meeting.

Pursuant to Section 1187.9, subdivision (b), a party to a matter may request a postponement of a hearing on that matter until the Commission’s next regularly scheduled hearing and, although postponements of hearings are disfavored, each request for a postponement must be considered on its own merits and the executive director may postpone the matter on an affirmative showing of good cause. Circumstances that may indicate good cause to postpone a hearing include a

¹ The Test Claim is a challenge to the requirements of Order No. R9-2007-0001, issued by the San Diego Regional Water Quality Control Board (“2007 Permit”).

significant, unanticipated change in the status of the matter as a result of which the matter is not ready for hearing; or the number and complexity of the issues.²

On July 7, 2025, the Municipal Claimants became aware that the July 25, 2025 Commission meeting will only include four Commission members. Given the number and complexity of the issues, the Municipal Claimants would prefer the whole Commission to hear this matter.³ For this reason, the Municipal Claimants respectfully request postponement of the hearing on the Revised Proposed Decision.

The next Commission meeting is September 26, 2025. I am the lead counsel for this matter and I will be out of the country from September 23, 2025 through October 9, 2025. As such, I will not be able to attend the September 26, 2025 Commission meeting. The Municipal Claimants respectfully request that the hearing on the Revised Proposed Decision get postponed to either the October 24, 2025 or December 5, 2025 meeting.⁴

Other factors that the executive director should consider when determining to grant a postponement include whether there was any previous postponement, extension of time, or delay of hearing due to any party; the length of the postponement requested; whether the claimant or requester representative is engaged in a trial or other hearing that conflicts with the Commission hearing; whether, pursuant to Government Code section 17554, all parties have stipulated to a postponement; and whether the interests of justice are best served by a postponement, by moving forward with the hearing on the matter, or by imposing conditions on the postponement.⁵

Since the Commission served the Draft Proposed Decision and Parameters and Guidelines for Test Claim 07-TC-09-R on July 27, 2023, the Municipal Claimants received a 6-month extension of time to submit comments and a proposed RRM, the Water Boards, the State Controller's Office, and the Department of Finance all received a 6-month extension of time to submit comments in response, and the Water Boards received an additional 2-week extension of time to submit comments in response. The Municipal Claimants then received an additional extension to file the rebuttal. As a result of those extensions, the hearing date on this matter was initially postponed from October 27, 2023 to December 1, 2023, then to March 28, 2025, and then to May 25, 2025. After the Revised Proposed Decision came out, the Municipal Claimants and Water Board requested a brief extension to file comments which postponed the hearing to July 25, 2025.

I have alerted the Water Boards, Department of Finance, and State Controller's Office of the Municipal Claimants' desire to postpone the hearing. The Municipal Claimants are unaware if the Water Boards, Department of Finance, or State Controller's Office object to the postponement.

² See, 2 Cal. Code Regs., § 1187.9(b)(1).

³ 2 Cal. Code Regs., § 1187.9(b)(1)(F).

⁴ 2 Cal. Code Regs., § 1187.9(b)(1)(A).

⁵ See, 2 Cal. Code Regs., § 1187.9(b)(2).

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Commission on State Mandates
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Municipal Claimants respectfully submit that the reasons set forth herein constitute good cause for the requested extension and postponement. The Municipal Claimants appreciate your consideration of these extension and postponement requests. Please let me know if you have any questions. I can be reached at (626) 696-9319 or by email at Anya.Kwan@bbklaw.com.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge, information, or belief, that this declaration is executed on this 9th day of July 2025

Sincerely,



Anya Kwan
for BEST BEST & KRIEGER LLP

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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 July 11, 2025, I served the:

- **Current Mailing List dated July 11, 2025**
- **Notice of Postponement of Hearing issued July 11, 2025**
- **Claimants' Request for Postponement of Hearing filed July 9, 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 July 11, 2025 at Sacramento, California.



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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 7/11/25

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 Chula Vista
City of Del Mar
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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