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RECEIVED
August 21, 2017
**Commission on
State Mandates**

August 21, 2017

VIA ELECTRONIC FILING

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

**Re: Request for Additional Extension of Time to Respond to Notice of Incomplete
Joint Test Claim Filing**
*California Regional Water Quality Control Board,
San Francisco Bay Region, Order No. R2-2009-0074*
Consolidated 10-TC-01, 10-TC-02, 10-TC-03 and 10-TC-05

Dear Ms. Halsey:

This letter is submitted on behalf of the Alameda¹ and San Mateo² County Claimants in response to your April 19, 2017, Notice of Incomplete Test Claim Filing letter, your May 11, 2017, letter partially approving our first request for an extension of time to respond, and your July 11, 2017, letter approving our second request for an extension of time to respond and postponement of the December 1, 2017 hearing on the above-captioned consolidated Test Claims. We are writing to request an additional 30-day extension of time to revise the test claim documents in accordance with the Commission's direction and to otherwise respond to the notice. This request is supported by good cause because of the number and complexity of the issues, our inability to obtain essential testimony, documents, or other material evidence, and our inability to obtain written direction and authorization on whether to withdraw 37 co-claimants from the test claim, despite our diligent efforts.

¹ The "Alameda County Claimants" are the following entities, which submitted Test Claim No. 10-TC-02: the City of Alameda and the County of Alameda, the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Pleasanton, San Leandro and Union City, the Alameda County Flood Control and Water Conservation District, and the Alameda County Flood Control and Water Conservation District, Zone 7.

² The "San Mateo County Claimants" are the following entities, which submitted Test Claim No. 10-TC-01: the City of Brisbane and the County of San Mateo, the San Mateo County Flood Control District, the Cities of Belmont, Burlingame, Daly City, East Palo Alto, Foster City, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Redwood City, San Bruno, San Carlos, San Mateo and South San Francisco, and the Towns of Atherton, Colma, Hillsborough, Portola Valley and Woodside.

Please also note that we are not requesting another postponement of the hearing because, as your email communication dated August 11, 2017 indicates, the Commission has already tentatively rescheduled the hearing to take place on March 23, 2018.

These consolidated test claims involve unfunded mandates imposed by a lengthy and complex executive order (namely, California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2009-0074). The Commission's directives require us to compile actual cost information and more detailed descriptions of new and existing activities for the claimants we represent. This means that the issues involved in responding to the Commission's notices are numerous and complex.

Despite our diligent efforts, we have been unable to obtain essential testimony, documents, or other material evidence from our lead claimant in the amount of time currently provided by the Commission. Specifically, the Commission's notice requires the claimant to provide new test claim forms, written narratives and supporting declarations with related evidence. These documents, testimony and evidence are clearly essential to respond to the notice. As we mentioned in our initial request, the amount of time that has passed has made it more time consuming and difficult to track down relevant documents and evidence necessary to comply with the notices. Some stormwater program personnel have been unavailable because of summer holidays and therefore unable to provide us with complete documentation required to properly cure the test claim. Further, some stormwater program personnel with knowledge of costs incurred during the relevant time period have retired, including key personnel from Alameda Countywide Clean Water Program, which has additionally complicated our collection of information. These factors have prevented us from completing the tasks required to comply with the notices and necessitate the requested extension.

Further, we are in the process of obtaining direction and authorization from our clients on whether to withdraw their test claims, as suggested in your May 11, 2017, letter stating that it is unnecessary for 38 co-claimants to participate in this proceeding. We have received authorization to withdraw from a number of the co-claimants at this time. However, some of our clients are obligated to present this issue and gain final approval for withdrawal from their respective governing bodies during a noticed meeting. Because some of these meetings will not take place until September 2017, we will be unable to obtain the necessary direction and authorization before the August 25, 2017 filing deadline.

Thank you for your consideration of this matter.

Sincerely,



Lindsey F. Zwicker
Attorney at Law

for

Gregory J. Newmark
Attorney at Law

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 August 22, 2017, I served the:

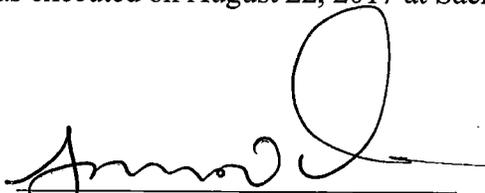
- **Notice of Extension Request Approval issued August 22, 2017**
- **Claimant (Counties of Alameda and San Mateo) Request for Extension of Time filed August 21, 2017**

*California Regional Water Quality Control Board, San Francisco Bay Region,
Order No. R2-2009-0074, Provisions C.2.b, C.2.c, C.2.e, C.2.f, C.8.b, C.8.c, C.8.d,
C.8.e.i, ii and iv, C.8.f, C.8.g, C.10.a.i, ii, and iii, C.10.b, C.10.c, C.10.d, C.11.f, and
C.12.f, 10-TC-01, 10-TC-02, 10-TC-03, and 10-TC-05*

Cities of Alameda, Brisbane, and San Jose, and County of Santa Clara, 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 August 22, 2017 at Sacramento, California.



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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/9/17

Claim Number: 10-TC-01, 10-TC-02, 10-TC-03, and 10-TC-05

Matter: California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2009-0074, Provisions C.2.b, C.2.c, C.2.e, C.2.f, C.8.b, C.8.c, C.8.d, C.8.e.i, ii, and iv, C.8.f, C.8.g, C.10.a.i, ii, iii, C.10.b, C.10.c, C.10.d, C.11.f, and C.12.f

Claimant: Cities of Alameda, Brisbane, and San Jose, and County of Santa Clara

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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