

Office of the City Attorney
RICHARD DOYLE, CITY ATTORNEY

- URGENT
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FROM: Colleen Winchester
Sr. Deputy City Attorney

FAX COMMUNICATION

DATE: June 29, 2011

TOTAL PAGES:
(INCLUDING THIS PAGE) 3

To: Ms. Nancy Patton
Assistant Executive Director

FAX: (916) 445-0278

To: _____

FAX: _____

COMMENTS:

Thank you for your consideration.

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Office of the City Attorney
RICHARD DOYLE, CITY ATTORNEY

COLLEEN WINCHESTER
Sr. Deputy City Attorney
Direct Line: (408) 535-1946

June 29, 2011

**VIA FACSIMILE # (916) 445-0278
& U.S. MAIL**

Ms. Nancy Patton
Assistant Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: *Municipal Regional Stormwater Permit-City of San José, 10-TC-05, City of San José, Claimant*

Request for Extension of Time to Submit Rebuttal Comments to San Francisco Bay Regional Water Quality Control Board Response to 10-TC-05

Dear Ms. Patton:

The City of San José ("City") respectfully requests an extension of time to submit rebuttal comments to the San Francisco Bay Regional Water Quality Control Board's (Board) response to its test claim. The City requests that the deadline for filing rebuttal comments to 10-TC-05 be extended to September 16, 2011. The County of Santa Clara (County) requested, and received, a similar extension for its rebuttal to the Board's response on its claim 10-TC-03, which is brought on the same permit issued by the Board.

The Executive Director may approve a request for an extension filed by a party for good cause. (2 Cal. Code of Regs. § 1183.01(c)(1)(B)). The applicable regulations define "good cause" to include, but not 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

Ms. Nancy Patton

Re: Request for Extension of Time to Submit Rebuttal Comments to San Francisco bay Regional Water Quality Control Board Respond to 10-TC-05
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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 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.
(*Id.*, § 1181.1(h).)

The Board's response to claims filed by the County, the City of Brisbane, the City of Alameda as well as the City. As demonstrated in the Board's response to the test claims, the issues presented in all of the claims are complex and interrelated. The County and the City's test claims are based upon the same permit issued by the Board. As with other public entities, the City is experiencing a large amount of staff turnover due to retirements and layoffs related to fiscal constraints, and the City Attorneys' office is no exception. Our office has lost several senior litigators and the office is having to re-adjust caseloads. I have been assigned to a trial on significant land use litigation, which was continued from July 18 to early Fall to conduct discovery. As a result, my availability is limited.

For the reasons set forth above, the City respectfully requests that the due date for filing written rebuttal comments to 10-TC-05 be extended to **September 16, 2011**.

Respectfully submitted,

RICHARD DOYLE, City Attorney

By:


COLLEEN WINCHESTER
Senior Deputy City Attorney

CDW/scc

cc: Dorothy Dickey, Esq. (by email)
Gregory Newmark, Esq. (by email)
Elizabeth Pianca, Esq. (by email)

Commission on State Mandates

Original List Date: 12/10/2010
Last Updated: 6/30/2011
List Print Date: 06/30/2011
Claim Number: 10-TC-05
Issue: Municipal Regional Stormwater Permit - Municipal Operations (C.2)

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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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 June 30, 2011, I served the:

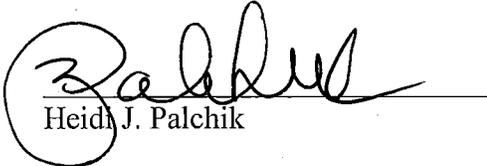
Request for Extension of Time

Municipal Regional Stormwater Permit –Municipal Operations (C.2)

Municipal Regional Stormwater Permit Number CAS612008, issued by the Regional Water Quality Control Board, San Francisco Region as Order No. R2-2009-0074, October 14, 2009
City of San Jose, Claimant

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 June 30, 2011 at Sacramento, California.


Heidi J. Palchik