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GOVERNOR



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ENVIRONMENTAL PROTECTION

State Water Resources Control Board

January 22, 2018

RECEIVED
January 22, 2018
**Commission on
State Mandates**

VIA CSM DROPBOX

Heather Halsey, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

*CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION,
ORDER NO. R4-2012-0175, 13-TC-01 AND 13-TC-02: REQUEST FOR EXTENSION OF TIME
TO SUBMIT COMMENTS*

Dear Ms. Halsey:

On June 30, 2014, Los Angeles County, Los Angeles County Flood Control District, and several cities within Los Angeles County (collectively, Claimants) filed the above-referenced Test Claims Nos. 13-TC-01 and 13-TC-02. The Test Claims allege numerous reimbursable mandated activities arising from issuance of the Los Angeles County Municipal Separate Storm Sewer System (MS4) Permit, Order No. R4-2012-0175, by the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board). On July 21, 2014, the Test Claims were placed in inactive status due to the pendency of appeals regarding test claims filed with respect to the 2001 Los Angeles County and 2007 San Diego County MS4 permits.

On May 25, 2017, the Commission notified the Claimants that their Test Claim filings were incomplete and allowed the Claimants to cure the filings by submitting revised documentation to the Commission by June 26, 2017. The Claimants received several extensions from the Commission. On October 31, 2017, Commission staff determined that revised Test Claim No. 13-TC-02 was complete, removed the Test Claim from inactive status, and requested written comments analyzing the merits of the Test Claim and submittal of the administrative records for the underlying MS4 permit by the Los Angeles Water Board and State Water Resources Control Board (State Water Board) (collectively, Water Boards) by November 30, 2017. The Commission thereafter granted the Water Boards an extension of time to submit comments on Test Claim No. 13-TC-02 until January 29, 2018. On November 30, 2018, the Water Boards submitted the administrative records for the underlying MS4 permit. On December 14, 2017, Commission staff determined that revised Test Claim No. 13-TC-01 was complete, removed the Test Claim from inactive status, consolidated Test Claim No. 13-TC-01 with Test Claim No. 13-TC-02, and requested written comments analyzing the merits of both Test Claims by January 29, 2018.

For the reasons described below, the Water Boards respectfully request an additional 60-day extension of time to submit written comments analyzing the merits of both Test Claims. If granted, the Water Boards will submit its comments by **March 30, 2018**.

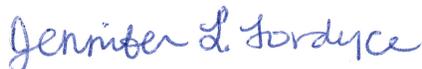
FELICIA MARCUS, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

First, the Water Boards agree that consolidation of the Test Claims is appropriate since they are based on the same permit, the same administrative records, and share many of the same alleged mandated activities. We note, however, that Test Claim No. 13-TC-01 appears to challenge several additional mandated activities not raised in Test Claim No. 13-TC-02. Analyzing the merits of both Test Claims, which include over 2,000 pages with attachments, will require considerable attorney and staff time to research and provide comments on these issues. While we agree that submitting combined comments on the Test Claims will be more efficient, doing so by the current deadline of January 29, 2018 will not be possible given the recent consolidation. Second, since November 9, 2017, when the Water Boards requested a 90-day extension to submit comments on Test Claim No. 13-TC-02,¹ the Water Boards have experienced unanticipated litigation delays that have limited our ability to work on this matter. Several litigation matters that we expected to be completed by December 2017 were continued to January and February 2018, requiring Board staff and I to attend multiple days of court hearings. Third, in addition to working on test claim matters, Board staff and I are also responsible for other priority duties that limit our ability to exclusively work on this matter, including preparing orders for consideration by the Board at its monthly meetings and working with the Attorney General's Office on other existing litigation matters. Accordingly, despite our best efforts, the Water Boards are unable to prepare combined written comments on the Test Claims by January 29, 2018. Extending the deadline as requested will provide the Water Boards with the necessary time to submit combined comments on the Test Claims, as well as tend to our other work responsibilities. The Water Boards believe that a 60-day extension is also reasonable in light of the fact that the Claimants were provided with several months to cure their incomplete test claim filings.

Section 1187.9, subdivision (a), of the Commission's regulations provides that so long as a postponement of a hearing would not be required, there is no prejudice to any party or interested party, and there is no other good reason for denial, the request shall be approved. The hearing on the test claims is tentatively scheduled for November 30, 2018. The Water Boards do not believe that postponement of the hearing will be required if this extension is granted. If, however, the Commission believes that granting this extension would constrain the time the Commission requires to prepare for hearing, the Water Boards also request a corresponding postponement of the hearing date pursuant to section 1187.9, subdivision (b), of the Commission's regulations based on consideration of the above reasons.

Therefore, for the reasons set forth above, the Water Boards respectfully request that the deadline for submission of written comments on the Test Claims be extended 60 days to **March 30, 2018**. The Water Boards believe that good cause exists to allow the Executive Director to grant this requested extension and appreciates your consideration of this request. Please let me know if you have any questions. I can be reached at (916) 324-6682 or at Jennifer.Fordyce@waterboards.ca.gov.

Sincerely,



Jennifer L. Fordyce
Attorney III

cc: Service List via CSM Dropbox

¹ In response to the Water Boards' request, the Commission granted a 60-day extension.

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 January 26, 2018, I served the:

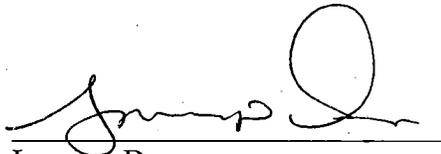
- **Notice of Extension Request Approval issued January 26, 2018**
- **SWRCB and LARWQCB's Request for Extension on Time filed January 22, 2018**

California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2012-0175, 13-TC-01 and 13-TC-02

Cities of Agoura Hills, Bellflower, Beverly Hills, Carson, Cerritos, Commerce, Downey, Huntington Park, Lakewood, Manhattan Beach, Norwalk, Pico Rivera, Rancho Palos Verdes, Redondo Beach, San Marino, Santa Clarita, Santa Fe Springs, Signal Hill, South El Monte, Vernon, Westlake Village, and Whittier, County of Los Angeles, and Los Angeles County Flood Control District, 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 January 26, 2018 at Sacramento, California.



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COMMISSION ON STATE MANDATES

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Last Updated: 12/21/17

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City of Bellflower
City of Beverly Hills
City of Carson
City of Cerritos
City of Commerce
City of Downey
City of Huntington Park
City of Lakewood
City of Manhattan Beach
City of Norwalk
City of Pico Rivera
City of Rancho Palos Verdes
City of Redondo Beach
City of San Marino
City of Santa Clarita
City of Santa Fe Springs
City of Signal Hill
City of South El Monte
City of Vernon
City of Westlake Village
City of Whittier
County of Los Angeles
Los Angeles County Flood Control District

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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