



EDMUND G. BROWN JR.
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MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

RECEIVED
November 13, 2017
**Commission on
State Mandates**

November 9, 2017

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-02: REQUEST FOR EXTENSION OF TIME TO SUBMIT
COMMENTS

Dear Ms. Halsey:

On June 30, 2014, Los Angeles County and the Los Angeles County Flood Control District (collectively, Claimants) filed the above-referenced Test Claim No. 13-TC-02. The Test Claim alleges 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 Claim was 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 the Test Claim filing was incomplete and allowed the Claimants to cure the filing by submitting revised documentation to the Commission by June 26, 2017. The Claimants submitted revised documentation to the Commission on September 6, 2017, September 7, 2017, and October 23, 2017, after receiving two extensions from the Commission and Commission staff's determination that the September 2017 filings were still incomplete. On October 31, 2017, Commission staff determined that the Claimants' revised Test Claim filing 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.

For the reasons described below, the Water Boards respectfully request an additional 90-day extension of time to submit written comments. If granted, the Water Boards will submit its comments by **February 28, 2018**.

Please note we are not requesting an extension of time to submit the administrative records at this time. However, for context, the Commission should be aware that the official administrative

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records consists of six separate records, five from the Los Angeles Water Board¹ and one from the State Water Board. The Water Boards are currently ensuring that each record is prepared in electronic and searchable format and expect that we should be able to upload all of the records to the Commission's website by November 30, 2017.

The Water Boards request a 90-day extension of time to submit written comments analyzing the merits of the Test Claim for the reasons that follow. First, the Water Boards need to closely evaluate the Test Claim, as revised, and the numerous provisions Claimants allege to be unfunded state mandates and anticipates that it will not be possible to both submit comments and the administrative records by November 30, 2017. Analyzing the merits of the Test Claim, which is over 1,000 pages long with attachments, will require considerable attorney and staff time to research and provide comments on these issues. Second, I am the attorney assigned to Los Angeles Water Board test claim matters and will be preparing comments on behalf of the Water Boards. In addition to working on test claim matters, I am also responsible for other priority duties that limit my ability to exclusively work on this matter, including assisting staff in preparing orders for consideration by the Board at its monthly meetings and working with the Attorney General's Office on existing litigation matters that are currently scheduled through January 2018. Third, key staff in the Los Angeles Water Board's Municipal Stormwater Permitting Unit (the unit responsible for the subject of this Test Claim) that will be assisting me on this matter are also constrained by other priority work obligations. Lastly, both key staff and I have pre-scheduled vacation plans during the November and December holiday seasons that will impact our availability. Accordingly, the Water Boards will not have sufficient time to prepare both the administrative records and submit comments on the Test Claim by November 30, 2017. Extending the deadline as requested will provide the Water Boards with the necessary time to submit comments on this Test Claim, as well as tend to our other work responsibilities. The Water Boards believe that a 90-day extension is also reasonable in light of the fact that the Claimants were provided with approximately five months to cure their incomplete test claim filing.

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 this test claim is tentatively scheduled for September 28, 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 Claim be extended 90 days to **February 28, 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.

¹ The Los Angeles Water Board's administrative record for the 2012 Los Angeles County MS4 Permit incorporated four prior records for the following permitting actions – the 2001 Los Angeles County MS4 Permit, the 2007 amendment to the Los Angeles County MS4 Permit to incorporate the Marina del Rey Bacteria TMDL, the 2009 amendment to the Los Angeles County MS4 Permit to incorporate the Los Angeles River Trash TMDL, and the 2010 Ventura County MS4 Permit (which includes the record for the 2009 Ventura County MS4 Permit).

Heather Halsey
Executive Director

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November 9, 2017

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,

A handwritten signature in blue ink that reads "Jennifer L. Fordyce". The signature is written in a cursive style with a large initial "J".

Jennifer L. Fordyce
Attorney III

cc: Service List via CSM Dropbox

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 November 17, 2017, I served the:

- **Notice of Limited Extension Request Approval issued November 17, 2017**
- **State Water Resources Control Board (SWRCB) and Los Angeles Regional Water Quality Control Board (LARWQCB) Request for Extension of Time filed November 13, 2017**

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

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 November 17, 2017 at Sacramento, California.



Heidi Palchik
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 11/6/17

Claim Number: 13-TC-02

Matter: California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2012-0175

Claimants: 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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