



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

June 15, 2017

VIA DROP BOX

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

RECEIVED
June 16, 2017
**Commission on
State Mandates**

California Regional Water Quality Control Board, San Diego Region, Order No. R9-2013-0001, 14-TC-03, County of San Diego, Claimant

REQUEST FOR EXTENSION OF TIME TO SUBMIT COMMENTS AND TO SUBMIT THE ADMINISTRATIVE RECORD FOR ORDER NO. R9-2013-0001

Dear Ms. Halsey:

By letter dated May 25, 2017, the Commission on State Mandates (Commission) issued a Notice of Complete Joint Test Claim Filing, Removal from Inactive Status, Schedule for Comments, Renaming of Matter, Request for Administrative Record, and Notice of Tentative Hearing Date (Notice) in the above matter. The Notice requests that parties analyze the merits of the Test Claim and submit written comments on or before June 26, 2017. The Notice also requests that the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) and State Water Resources Control Board (State Water Board) (collectively Water Boards) submit the official administrative record(s) of the underlying Municipal Separate Storm Sewer System (MS4) permit and tentatively sets a hearing date in May 2018. The Water Boards intend to submit written comments analyzing and responding to the merits of the Test Claim and the administrative record for the underlying MS4 permit but, for the reasons described below, request a 60-day extension of time until **August 25, 2017**, in which to do so.

The Water Boards want to closely evaluate the Test Claim and the numerous provisions alleged to be unfunded state mandates, as well as the funding source and authority issues identified by the Commission in its Notice, and do not believe it will be possible to do so and submit the administrative record for the underlying permit by June 26. First, inclusive of attachments, the revised Test Claim exceeds 1000 pages and identifies at least eight separate permit provisions as unfunded mandates. I anticipate it will require extensive attorney and staff time to research and prepare a thorough response and finalize preparation of the record for the underlying permit.¹ Second, I am the attorney

¹ The administrative record for the underlying permit is largely prepared but will need to be reviewed and modified as necessary as it was prepared for subsequent amendments to the underlying permit.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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assigned to test claim matters arising from San Diego Water Board MS4 permits. In addition to my work on this Test Claim, I am responsible for preparing comments and the record for the test claim in *California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016, 11-TC-03* (currently with a deadline of July 7, 2017),² and *10-TC-11* (Order No. R9-2009-0002), tentatively set for hearing in September 2017. I am also working concurrently on several significant permitting and cleanup matters, other routine but essential matters, and assisting the Attorney General's Office with several litigation matters involving the San Diego Water Board. These competing priorities limit my ability to devote the time necessary to analyze the Test Claim by the due date. In addition, I have pre-planned vacations June 22-26 as well as July 25-August 6. Third, the two Municipal Storm Water Permitting staff assigned to assist me in preparing comments to this and *California Regional Water Quality Control Board, Order No. R9-2010-0016, 11-TC-03*, and in preparing the administrative records for both matters, likewise have competing work obligations and have pre-planned vacations during the months of June and July.

Section 1187.9, subdivision (a), of the Commission's regulations provides that as 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, a request for extension of time to file comments on a test claim shall be approved. The hearing on this Test Claim is tentatively scheduled for May 2018. The Water Boards do not believe that postponement of the hearing will be required if the extension is granted and are not aware of any prejudice to any party or interested person, or any other good reason, that the request for more time should not be granted.

For all of the reasons described above, the Water Boards respectfully request that the deadline for submission of written comments on the Test Claim and the administrative record for the underlying permit be extended sixty days, to **August 25, 2017**. The Water Boards appreciate your consideration of this request. Please let me know if you have any questions. I can be reached at (619) 521-3012 or by e-mail at Catherine.Hagan@waterboards.ca.gov.

Sincerely,



Catherine George Hagan
Senior Staff Counsel

cc: Service List [via Commission Drop Box]

² Although the Water Boards have already been granted a thirty day extension of time to file comments and the administrative record(s) in 11-TC-03 (*California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016, County of Riverside et al.*), the Water Boards are simultaneously requesting a further extension of time in that matter on substantially the same grounds.

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 June 20, 2017, I served the:

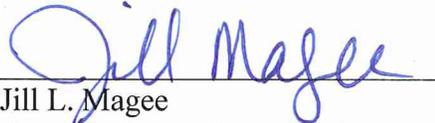
- **Notice of Extension Request Approval issued June 20, 2017**
- **CRWQCB Request for Extension to Respond to the Notice of Removal from Inactive Status filed June 16, 2017**

California Regional Water Quality Control Board, San Diego Region, Order No. R9-2013-0001, 14-TC-03

County of San Diego, 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 20, 2017 at Sacramento, California.



Jill L. Magee
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 6/5/17

Claim Number: 14-TC-03

Matter: California Regional Water Quality Control Board, San Diego Region, Order No. R9-2013-0001

Claimant: County of San Diego

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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