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## State Water Resources Control Board

**RECEIVED**  
November 20, 2019  
**Commission on  
State Mandates**

November 20, 2019

### **Via Drop Box**

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

**RE:** *California Regional Water Quality Control Board, San Diego Region, Order No. R9-2017-0077, Sections A.1, A.3, and A.5, 17-TC-05, City of San Juan Capistrano and County of San Diego, Claimants, **Water Boards' Request for 45-Day Extension to Submit Written Comments***

Dear Ms. Halsey:

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) and the State Water Resources Control Board (State Water Board) (collectively, Water Boards) request a 45-day extension pursuant to section 1187.9 of the Commission on State Mandates' (Commission) regulations to submit written comments in the above-captioned test claims. The current deadline to submit written comments for the pending test claim is November 26, 2019. If the Commission grants the Water Boards' requested extension, the Water Boards would be required to submit written comments on or before January 10, 2020. The reasons for granting the extension are set forth below.

### **Procedural Background**

The San Diego Water Board issued Order No. R9-2017-0077 to implement statewide requirements known as the "Trash Amendments," adopted by the State Water Board in 2015. Pursuant to the Notice of Complete Test Claim (Notice) issued for this test claim, comments and the administrative records were initially due on or before October 22, 2018. The Commission has approved numerous requests for extension of time to submit comments and the records. On March 29, 2019, the Water Boards submitted the administrative records through the Commission's Drop Box. On April 3, 2019, the Commission notified the Water Boards that the administrative records were not in a searchable format and required the Water Boards to refile the records by 5 p.m. on April 4, 2019. The Water Boards took steps to resolve the searchability difficulties and refiled the administrative records by the deadline. On April 29, 2019, the Commission again informed the Water Boards that the documents were legible but not searchable and required the Water Boards to refile the records in legible and searchable format by 5 p.m. on April 30, 2019. The Commission granted the Water Boards' request for a 28-day extension of time to refile the administrative records, such that the records and the written comments were due on or before May 28, 2019. The Water Boards worked to address the searchability issues and resubmitted the administrative records on May 28, 2019.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

On July 17, 2019, the Commission notified the Water Boards that the administrative records for the Trash Orders and the State Water Board section 13383 investigative orders were in a searchable format, but that the record for the State Water Board Trash Amendments was corrupted and not legible. The Water Boards expended a substantial amount of time and resources to address the issues with the Trash Amendments record and resubmitted it on August 6, 2019. On November 18, 2019, the Commission notified the Water Boards of the specific numbered pages in the Trash Amendments record that remain unsearchable and require remediation. The November 18 notification provides the Water Boards until December 18 to resubmit the Trash Amendments record in legible and searchable format. The Water Boards have initiated efforts to resolve the searchability deficiencies in the identified pages (numbering approximately 100).

***Basis for Extension Request***

The Water Boards are continuing to coordinate with the Santa Ana Water Board to finalize the written comments for the Commission. As the attorney for the San Diego Water Board assigned to work on these and other test claim matters, I continue to face competing priorities with other litigation, complex California Public Records Act requests and other priority permitting, enforcement and clean up matters. In light of the Commission's November 18 notification, we are also diverting resources to resolve the searchability deficiencies with specific pages in the Trash Amendments record for re-filing on or before December 18, 2019. Thus, while the Water Boards have made significant progress on completing their written comments, additional time is needed to complete the comments, including management review. The upcoming holidays will pose additional challenges in scheduling management review. For these reasons, the Water Boards seek additional time to submit written comments.

Section 1187.9, subdivision (a) of the Commission's regulations provides that as long as 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 Water Boards believe the circumstances described above warrant approval of their request. The hearing in the above test claim, tentatively set for **July 23, 2021**, will not be affected if the request is granted. Under the circumstances described above, the Water Boards do not believe that any party will be prejudiced if the requested extension is granted and are aware of no other good cause for denial of this request.

For all of these reasons, the Water Boards request that the deadline to submit written comments responding to this Test Claim be extended until **January 10, 2020**. The Water Boards appreciate your consideration of this request. I can be reached at (619) 521-3012 or by email at [Catherine.Hagan@waterboards.ca.gov](mailto:Catherine.Hagan@waterboards.ca.gov) if you have any questions.

Sincerely,



Catherine George Hagan  
Attorney IV

cc: Service List [via Commission Drop Box]

**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.

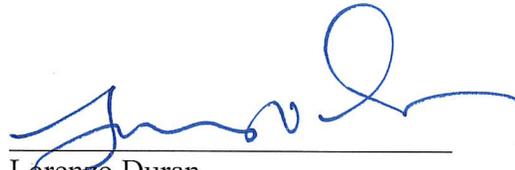
On November 22, 2019, I served the:

- **Notice of Extension Request Approval issued November 22, 2019**
- **SWRCB's and SDRWQCB's Request for Extension of Time filed November 20, 2019**

*California Regional Water Quality Control Board, San Diego Region,  
Order No. R9-2017-0077, Sections A.1, A.3, and A.5, 17-TC-05  
City of San Juan Capistrano and County of San Diego, 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 22, 2019 at Sacramento, California.



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Lorenzo Duran  
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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 11/7/19

**Claim Number:** 17-TC-05

**Matter:** California Regional Water Quality Control Board, San Diego Region, Order No. R9-2017-0077, Sections A.1, A.3, and A.5

**Claimants:** City of San Juan Capistrano  
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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