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April 30, 2014

**VIA EMAIL**

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Tim Regan, Esq.  
Office of Chief Counsel  
State Water Resources Control Board  
1001 I Street, 22<sup>nd</sup> Floor  
P.O. Box 100  
Sacramento, CA 95812-100

**Re: Comments – Proposed Amendments to California Code of Regulations, Title 23, Division 3, Chapter 6: Rules Governing Review By State Board of Action or Failure to Act by Regional Board**

Dear Mr. Regan:

The San Diego Unified Port District (Port) submits the following comments to the State Water Resources Control Board (State Board) on the proposed amendments to California Code of Regulations, title 23, division 3, chapter 6. The Port welcomes the proposed revision and strongly supports the objectives of the proposed amendments. The Port respectfully adds the following specific comments and requests for minor revisions.

**1. Length of Notification Period**

The Port strongly agrees with the State Board's proposed amendment to provide a more definite and shorter time period for action or disposition by inaction by the State Board. The Port believes that, rather than a 90-day period, section 2050.5(e) should be amended to provide for a shorter 60-day notification period. While the proposed notice period will provide much-needed certainty regarding the status of petitions that is unavailable under the current regulations, the Port believes a slightly shorter notice period would be even more beneficial.

If the State Board decides to consider a petition, the State Board will still have another 270 days to decide whether to grant or deny (either by order or operation of law for failure to act) a

petition. Providing for a slightly shorter initial 60-day notice period would provide even more certainty to a petitioner and expedite the resolution of petitions at the State Board level, either through action by the State Board or by dismissal by operation of law, without unnecessarily burdening the State Board.

## 2. Notice Period for Petitions Pending On Effective Date of Amendments

The Port requests that the time limit for notification for petitions filed prior to the effective date of subdivision (e) be slightly shortened as well. The Port requests that the following notification periods be used for the proposed amendments to section 2050.5(f):

- |   |                 |
|---|-----------------|
| (1) For petitions received before January 1, 2011:  | <b>90 days</b>  |
| (2) For petitions received from January 1, 2011<br>to December 31, 2012:                            | <b>120 days</b> |
| (3) For petitions received from January 1, 2013 to day before<br>effective date of subdivision (e): | <b>240 days</b> |

The Port understands that the existing backlog of petitions with the State Board is substantial and that the State Board will require additional time to evaluate the previously filed petitions. However, these petitions have been pending for a significant period of time with some petitioners, including the Port, having been waiting for years for any indication that the State Board will even hear their petitions. The schedule and proposed timelines above would serve to expedite the resolution of the pending petitions and would be more in line with the State Board's stated desire to evaluate the petitions on a "first-in first out" basis. *See State Board, Initial Statement of Reasons, Title 23, Chapter 6, February 2014, pg. 3.*

## 3. Effective Date for Amendments

The Port also requests that, upon the finalization of the proposed amendments and submission to the Office of Administrative Law (OAL) for publication, the State Board also submit a written request demonstrating good cause for an earlier effective date, pursuant to California Government Code section 11343.4(b)(3). The Port asks that the State Board request the effective date of the amendments to be no later than 28 days after submission to the OAL, regardless of when during the quarter the amendments are received by the OAL. *See Cal. Gov. Code § 11343.4(a).* The need to trigger the State Board's review period in order to begin addressing the backlog of previously submitted petitions represents sufficient good cause for requesting a sooner effective date for the amendments.

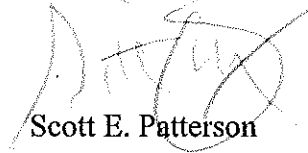
We again emphasize that the Port strongly supports the proposed amendments, which should go a long way to add certainty to the rules governing the review of petitions to the State Board. The Port's comments simply seek to make this proposed process even more efficient and to

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provide even greater clarity to petitioners regarding the relevant timelines and the status of their petitions.

Please contact us if you have any questions or would like any clarification of the Port's position.

Very truly yours,

A handwritten signature in black ink, appearing to read "Scott E. Patterson", is written over a faint, circular stamp or watermark.

Scott E. Patterson

SEP/BPS/jd

cc: William D. McMinn, Esq.