

ORDINANCE NO. 2009-01

AN ORDINANCE OF THE PAJARO VALLEY WATER MANAGEMENT
AGENCY EXTENDING THE DEADLINE FOR FILING REFUND CLAIMS FOR
AUGMENTATION CHARGES PAID PURSUANT TO SECTION 4 OF ORDINANCE
2003-01 AND SECTION 4 OF ORDINANCE 2004-02

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WHEREAS, on or about February 20, 2008, the Board of Directors of the Pajaro Valley Water Management Agency adopted Ordinance No. 2008-01, entitled AN ORDINANCE OF THE PAJARO VALLEY WATER MANAGEMENT AGENCY ESTABLISHING PROCEDURES AND LIMITATIONS PERIOD FOR FILING REFUND CLAIMS (the "Refund Claims Ordinance"); and

WHEREAS, the Refund Claims Ordinance requires all claims against the Agency for money, damages or refunds, not otherwise governed by the Tort Claims Act, California Government Code Sections 900, et seq., or any other law of the State of California (hereinafter "claims"), including all claims for refunds of management fees, augmentation charges or delivery charges to be submitted within one (1) year after the accrual of the claim pursuant to California Government Code Section 911.2.; and

WHEREAS, Section 4.A of the Refund Claims Ordinance specifies all claims for refunds of augmentation charges paid pursuant to Section 4 of Ordinance 2003-01 or Section 4 of Ordinance 2004-02, and made pursuant to the stipulation for entry of judgment in the consolidated actions entitled James P. Scurich et al. v. PVWMA (SCSC Case No. CV 144843; 6th Civil No. H025776); PVWMA v. All Persons Interested (Case No. CV 146754; 6th Civil No. H027817); Harold W. Griffith v. PVWMA (SCSC Case No. 150716); San Andreas Mutual Water Company v. PVWMA (SCSC Case No. 150923) (collectively, the "Consolidated Actions") are deemed to have accrued within one year of the Refund Claims Ordinance's effective date; and

WHEREAS, pursuant to Section 9, the Refund Claims Ordinance, became effective sixty (60) days after entry of judgment in the Consolidated Actions after judgment in said actions became final, i.e., on April 22, 2008, and therefore all claims for augmentation charges paid pursuant to Section 4 of Ordinance 2003-01 or Section 4 of Ordinance 2004-02 accrued on that date and must be presented on or before April 22, 2009 or thereafter will be time-barred; and

WHEREAS, the Board of Directors has determined that deadline for presenting claims for refunds pursuant to Section 4 of Ordinance 2003-01 or Section 4 of Ordinance 2004-02 should be extended as specified herein.

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MANAGEMENT AGENCY EXTENDING THE DEADLINE FOR FILING REFUND CLAIMS FOR
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SECTION 4 OF ORDINANCE 2004-02**

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Pajaro Valley Water Management Agency as follows:


SECTION 1. That notwithstanding the April 22, 2009 deadline specified in the Refund Claims Ordinance, the Agency shall, until May 22, 2009, continue to accept as timely filed all otherwise properly submitted claims for refunds of augmentation charges paid pursuant to Section 4 of Ordinance 2003-01 or Section 4 of Ordinance 2004-02.

SECTION 2: Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.


SECTION 3: Effective date. This ordinance shall be in full force and effect immediately upon its adoption. The General Manager of the Agency is hereby directed to publish a copy of this ordinance in accordance with the requirements of California Government Code Section 6063 in a newspaper of general circulation within the Agency boundaries.

PASSED AND ADOPTED this 15th day of April, 2009, by the following votes:

AYES: Directors: Osmer, Imazio, Kegebein, Doblner, Koenig
NOES: Directors: Eiskamp
ABSENT: Directors: None
ABSTAIN: Directors: None


Dennis Osmer, Chair

ATTEST:


Secretary

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