

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition of)
)
CITY OF STOCKTON)
)
Requesting the Stay of Waste Dis-)
charge Requirements Order No. 94-324,)
NPDES Permit No. CA0079138 by the)
California Regional Water Quality)
Control Board, Central Valley Region.)
Our File No. A-937.)
)

ORDER NO. WQ 95-1

BY THE BOARD:

The "Stipulation for Order Issuing Limited Stay"
entered into by the City of Stockton and the Regional Water
Quality Control Board, Central Valley Region, dated February 23,
1995, a copy of which is attached and incorporated by reference,
is approved.

CERTIFICATION

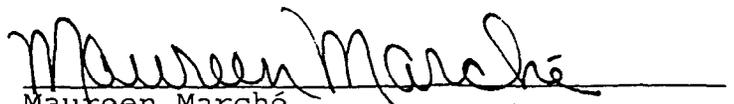
The undersigned, Administrative Assistant to the
Board, does hereby certify that the foregoing is a full, true,
and correct copy of an order duly and regularly adopted at a
meeting of the State Water Resources Control Board held on
March 16, 1995.

AYE: John Caffrey
Mary Jane Forster
James M. Stubchaer
John W. Brown

NO: None

ABSENT: Marc Del Piero

ABSTAIN: None


Maureen Marché
Administrative Assistant to the Board

1 CITY OF STOCKTON
2 R. THOMAS HARRIS, ESQ., City Attorney
3 BART J. THILTGEN, ESQ.
4 425 N. El Dorado Street
5 Stockton, CA 95202-1997
6 Telephone: (209) 937-8333

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

De CUIR & SOMACH
A Professional Corporation
PAUL S. SIMMONS, ESQ. (#127920)
ELIZABETH W. JOHNSON, ESQ. (#161545)
400 Capitol Mall, Suite 1900
Sacramento, California 95814
Telephone: (916) 446-7979



Attorneys for City of Stockton

10 BEFORE THE
11 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

12 In the Matter of the Petition of the)
13 City of Stockton for Review of Action)
14 and Failure to Act by Central Valley)
Regional Water Quality Control Board.)

SWRCB FILE NO. A-937

STIPULATION FOR ORDER ISSUING
LIMITED STAY

15 In order to conserve their resources and those of the State Water Resources Control Board
16 (State Board), and to promote a reasonable and amicable resolution of the subject appeal, and
17 because these objectives can be accomplished without compromising the quality of the waters of
18 the State, the Regional Water Quality Control Board, Central Valley Region, (Regional Board)
19 and the City of Stockton hereby stipulate as follows:

20 1. The City operates a wastewater treatment facility which discharges to the San
21 Joaquin River under National Pollutant Discharge Elimination System (NPDES) Permit
22 No. CA0079138. In 1975, the Regional Board adopted a water quality objective of
23 5.0 milligrams per liter (mg/l) for the San Joaquin River in the vicinity of the discharge. In
24 1991, the State Board adopted a water quality objective of 6.0 mg/l for dissolved oxygen in the
25 San Joaquin River, applicable from Stockton to Turner Cut in the months of September through
26 November.

1 2. In the late 1970s, Stockton constructed tertiary treatment, in large part to meet
2 applicable effluent limitations related to dissolved oxygen.

3 3. On October 28, 1994, the Regional Board adopted its Order No. 94-324,
4 renewing Stockton's NPDES permit. The renewal permit contains new effluent limitations for
5 Carbonaceous Biochemical Oxygen Demand (CBOD) and ammonia, and receiving water
6 limitations for dissolved oxygen. The order requires immediate compliance with the new
7 limitations. It is extremely unlikely that Stockton can meet these limitations and requirements
8 with existing facilities.

9 4. During the negotiation and hearing process leading to the adoption of Order
10 No. 94-324, Stockton and the Regional Board disagreed in good faith with respect to the
11 appropriateness of the new limitations described in paragraph 3 and with respect to whether the
12 Regional Board had authority to establish a schedule of compliance in the renewed permit
13 creating the new limitations.

14 5. Stockton has appealed the Regional Board's Order on several grounds including the
15 dissolved oxygen-related limitations. In connection with its appeal of Order No. 94-324,
16 Stockton has requested a stay of the Order before April 1, 1995, as it anticipates violations of the
17 permit commencing on that date and for several years thereafter unless some form of relief is
18 granted, particularly with respect to ammonia.

19 6. Stockton has let contracts for the construction of new treatment facilities and is
20 planning for the construction of others. Although not initially planned to address dissolved
21 oxygen issues, the new facilities will result in improved effluent quality.

22 7. The State Board is reviewing the 6.0 mg/l water quality objective for the
23 San Joaquin River applicable in the months of September through November. Stockton has
24 proposed to the State Board that the 6.0 objective include authorization for a schedule of
25 compliance. If such a schedule is provided, the Regional Board's authority to provide a schedule
26 of compliance with respect to the 6.0 objective will be affected.

27 8. The Regional Board anticipates consideration of general authority in the Basin Plan
28 for schedules of compliance, and may consider the adoption of general or specific authority for

1 schedules related to the 5.0 objective, subject to legal and regulatory review. The establishment
2 of such authority would affect the Regional Board's authority to issue a schedule of compliance
3 with respect to the 5.0 objective. Other recent amendments to the Basin Plan, such as those
4 related to mixing zones, may also be relevant to certain issues raised in Stockton's appeal.

5 9. The parties believe that there is a reasonable probability that the major concerns of
6 Stockton is this appeal can be resolved without adversarial proceedings. Stockton reasonably
7 does not, however, wish to be in violation of federal and state law during the period of such
8 efforts at resolution.

9 10. Under all the circumstances currently existing, the parties believe it is fair and
10 appropriate and conducive to amicable resolution of this appeal to enter into this Stipulation.
11 Since Stockton cannot possibly construct new facilities for a period of several years, the only
12 practical result of a stay order conforming with the Stipulation is that Stockton shall not
13 unnecessarily be in violation of federal and state law during the pendency of this appeal.

14 11. The parties stipulate to, and jointly request, the entry of an Order by the State Board
15 providing as follows:

16 "Pending final disposition of this appeal, it is hereby ordered
17 that the effluent limitations for ammonia contained in Order
18 No. 94-324 of the Regional Water Quality Control Board, Central
19 Valley Region, and receiving water limitation E.13. within Order
20 No. 94-324 as it relates to dissolved oxygen, affecting NPDES
21 Permit No. CA0079138 are stayed.

22 "It is further ordered that: the issuance of this stay shall not
23 be deemed relevant to the ultimate disposition of the merits of this
24 appeal; and the inclusion or omission of any term in this stay or the
25 stipulation underlying the stay shall not be relevant to the
26 determination of the issues in this appeal, and the positions of the
27 parties on all the issues in the appeal are preserved.

28 "It is further ordered that this stay order shall not provide
cause for any failure to meet, or delay in meeting, any requirements
ultimately determined applicable to the discharge.

1 "Except as otherwise provided herein, Stockton's petition
2 for a stay of Order No. 94-324 is deemed to be withdrawn."

3 DATED: February 23, 1995.

R. THOMAS HARRIS, CITY ATTORNEY
CITY OF STOCKTON

4 De CUIR & SOMACH
5 A Professional Corporation

6
7 By Paul S. S.

8 Paul S. Simmons
9 Attorneys for the City of Stockton

10 DATED: February 23, 1995.

REGIONAL WATER QUALITY CONTROL
BOARD, CENTRAL VALLEY REGION

11
12 By William H. Crooks

13 William H. Crooks
14 Executive Officer

PROOF OF SERVICE
(State)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I am employed in the County of Sacramento; my business address is 1755 Creekside Oaks Drive, Suite 290, Sacramento, California; I am over the age of 18 years and not a party to the foregoing action.

On July 23, 1995, I served the following document(s):

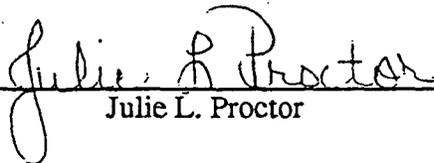
STIPULATION FOR ORDER ISSUING LIMITED STAY

X (by mail) on all parties in said action, in accordance with Code of Civil Procedure §1013a(3), by placing a true copy thereof enclosed in a sealed envelope, with postage fully paid thereon, in the designated area for outgoing mail, addressed as set forth below.

___ (by personal delivery) by personally delivering a true copy thereof to the person and at the address set forth below:

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 23, 1995, at Sacramento, California.



Julie L. Proctor

INTERESTED PERSONS LIST
PETITION OF CITY OF STOCKTON
OUR FILE NO. A-937

Paul S. Simmons
DeCuir & Somach
400 Capitol Mall, Suite 1900
Sacramento, CA 95814-4407

Terry Oda
Water Mgmt Division
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94103

U.S. Army Corp of Engineers
1325 J Street
Sacramento, CA 95814-2922

U.S. Fish and Wildlife Service
2800 Cottage Way
Room East 1803
Sacramento, CA 95825

National Marine Fisheries
Habitat Conservation Branch
777 Sonoma Avenue, Room 325
Santa Rosa, CA 95404

Mike Kiado
Department of Health Services
Office of Drinking Water
601 N. 7th Street M/S 92
P.O. Box 942732
Sacramento, CA 94234-7320

Department of Health Services
Environmental Management Branch
714 P Street
Sacramento, CA 95814

Department of Water Resources
Central District
3251 S Street
Sacramento, CA 95816

Department of Fish and Game
Region II
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670

Office of Historic
Preservation
P.O. Box 942896
Sacramento, CA 94296

San Joaquin County Planning
Department
1810 East Hazelton Avenue
Stockton, CA 95209

San Joaquin County Public
Health Services
Division of Environmental
Health
P.O. Box 388
Stockton, CA 95201-0388

San Joaquin County
Department of Public Works
1810 E. Hazelton Avenue
Stockton, CA 95201

San Joaquin County
Mosquito Abatement District
5503 S. Airport Way
Stockton, CA 95206

Betsy Jennings
State Water Resources
Control Board
Office of the Chief Counsel
P.O. Box 100
Sacramento, CA 95812-0100

William H. Crooks
Executive Officer
Central Valley Regional
Water Board
3443 Routier Road
Sacramento, CA 95827-3098