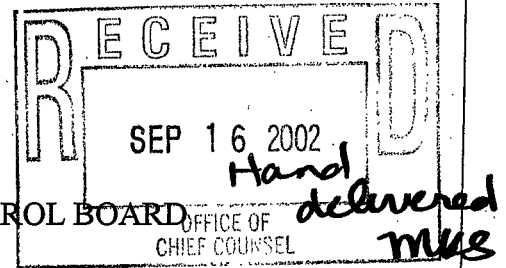


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BEFORE THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD



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

SWRCB/OCC File A-1483

**STIPULATION FOR ORDER ISSUING
STAY**

RECITALS

1. On May 28, 2002, the City of Stockton filed with the State Water Resources Control Board (State Board) a Petition for Review and Request for Hearing with respect to Central Valley Regional Water Quality Control Board (Regional Board) Orders R5-2002-0083 and R5-2002-0084. The City of Stockton also filed a Motion to Stay the Orders or certain provisions of the Orders, and on June 13, 2002, Stockton filed a Supplemental Memorandum in Support of the Motion for Stay.

2. In its Motion for Stay, the City of Stockton contends that there will be substantial harm to Stockton and the public interest if a stay is not granted, there will be a lack of substantial harm to the public interest, and there are substantial questions of law or fact, and provides evidence and argument in support of its contentions.

3. To conserve their respective resources and the resources of the State Board, and in recognition of their respective interest and the risks of administrative litigation, the City of Stockton and the Regional Board have cooperatively agreed that issuance of a more limited stay is appropriate, and serves their respective interests and the public interest.

STIPULATION

1. The City of Stockton and the Regional Board stipulate to, and agree, and jointly request and recommend to the State Board, the entry of an Order providing as follows:

“Effective April 26, 2002, the following provisions of Orders R5-2002-0083 and R5-2002-0084 of the Central Valley Regional Water Quality Board are stayed until the State Board adopts a dispositive final order on, or dismisses, the Petition for Review File SWRCB/OCC A-1483, as provided more specifically herein.

“A. The effluent limitation for ammonia found in effluent limitation B.1 of Order No. R5-2002-0083.”

“B. Cease and Desist Order No. R5-2002-0084.”

“C. The compliance periods for the following:

i. tasks and full compliance with respect to effluent limitations for ammonia specified in Order No. R5-2002-0084;

ii. final effluent limitations for coliform and turbidity found in Effluent Limitation B.1 and tasks and full compliance periods in Provision G.1 in Order No. R5-2002-0083;

iii. effluent limitations for dissolved oxygen found in Effluent Limitation B.4;

iv. final effluent limitations for copper, cyanide, endrin aldehyde, and lindane found in Effluent Limitation B.1 of Order No. R5-2002-0083;

v. the additive Human Carcinogenicity Study, provided in Provision G.5.b of Order No. R5-2002-0083;

vi. Pollution Prevention Plans provided in Provision G.6 of Order No. R5-2002-0083; with the exception that the Pollution Prevention Plans for total dissolved solids, mercury, and Group A pesticides are not stayed by this order;

vii. the Offset Program required by Provision G.8 of Order No. R5-2002-0083;

viii. the nitrate level study, as provided in Provision G.14 of Order No. R5-2002-0083;

ix. the temperature study, as provided in Provision G.15 of Order No. R5-2002-0083.”

With respect to the stay of compliance periods as provided above, the effect of the stay shall be to commence the schedule for the compliance periods, and the periods for interim steps toward compliance, upon the date the State Board issues a dispositive order on the Petition, if the State Board ultimately upholds the challenged provision or on the date the State Board dismisses the Petition. The total period for compliance, and the periods for interim steps toward

1 compliance, will equal the period or periods provided in the applicable
2 provision, unless ultimately enlarged by the State Board.

3 "D. The monitoring and reporting provisions of Order R5-2002-0083
4 requiring receiving water monitoring and reporting for CBOD₁₀, total Kjeldahl
5 nitrogen, NO₂-N, NO₃-N, total suspended solids, volatile suspended solids,
6 chlorophyll and pheophytin.

7 "E. The requirement in Provision G.1 and Effluent Limitation B.1 of
8 Order No. R5-2002-0083 to operate existing DAF and filtration requirements
9 year round in part; in particular, such provision is not stayed to the extent it
10 provides as follows: The tertiary facilities shall be operated continuously to the
11 maximum extent feasible subject to existing design limitations, operational
12 constraints, and in recognition that back-up equipment does not exist which
13 would allow operation during normal periods of equipment downtime or
14 preventive maintenance. During the period November 1 through March 31, the
15 Tertiary Facilities (DAFs and/or filters) are not required to be utilized when
16 such non-use is necessary to perform essential maintenance."

17 "F. The requirement in provision G.12 of Order No. R5-2002-0083 for
18 preparing a toxicity identification evaluation (TIE) and toxicity reduction
19 evaluation (TRE) work plan; provided, that such plans shall be initiated if the
20 indicated toxicity exceeds 2.7 chronic toxicity units (2.7 TU)."

21 "G. Nothing in this Order or the underlying stipulation leading to the
22 entry of this Order shall be deemed to constitute an admission of law or fact by
23 any party or relevant in any way to the State Board's ultimate resolution of any
24 issue identified in the Petition for Review or a determination by the State Board
25 of any such issue."

26 2. Upon adoption of the above Order by the State Board, the City of Stockton shall
27 withdraw its Motion for Stay from consideration by the State Board.

28 3. Notwithstanding the terms of this Stipulated Order provided in paragraph 1 above,
pending the entry of a final order by the State Board in this matter, or a dismissal of the
Petition, the City of Stockton shall proceed with respect to activities described in Phase 1a and
Phase 1b of the "Ammonia Effluent Limitation WorkPlan" transmitted to the Regional Board
on or about July 1, 2002. The parties acknowledge the Workplan provided a specific
anticipated schedule for such tasks. However, the parties further acknowledge and agree:
(i) that the City of Stockton cannot at this time determine what level of CEQA compliance
would be required for any selected alternative and that the described schedule for the

1 referenced tasks is not itself within Order R5-2802-0083; (ii) that under the circumstances of
2 its development, the Workplan necessarily was based on an assumption with respect to the
3 manner of implementation of facility improvements; and (iii) that alternative means of
4 implementation are under consideration which may affect the timing of any action by the City
5 Council as well as the project that is the subject of CEQA evaluation. The City of Stockton
6 shall, on a quarterly basis, apprise the Regional Board of its progress.
7

8 SOMACH, SIMMONS & DUNN
9 A Professional Corporation

10 Dated: September 14, 2002

11 By Paul S. Simmons
12 Paul S. Simmons
13 Attorneys for City of Stockton

14 CENTRAL VALLEY REGIONAL WATER
15 QUALITY CONTROL BOARD

16 Dated: September 12, 2002

17 By Thomas R. Pinkos
18 Thomas R. Pinkos
19 Acting Executive Officer
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