



1 County of Inyo, not the California Supreme Court as this Court instructed in its order of  
2 June 7, 2007. (Id.; Order, ECF No. 7.)

3 As discussed by the Supreme Court, the stay and abeyance procedure is available  
4 only in limited circumstances because the procedure frustrates AEDPA's<sup>1</sup> objective of  
5 encouraging finality and streamlining federal habeas proceedings. Rhines v. Weber, 544  
6 U.S. 269, 277 (2005).

7 A mixed petition should not be stayed indefinitely... Without  
8 time limits, petitioners could frustrate AEDPA's goal of finality  
9 by dragging out indefinitely their federal habeas review. Thus,  
10 district courts should place reasonable time limits on a  
11 petitioner's trip to state court and back. See, e.g., Zarvela, 254  
12 F.3d, at 381 ("[District courts] should explicitly condition the  
13 stay on the prisoner's pursuing state court remedies within a  
14 brief interval, normally 30 days, after the stay is entered and  
15 returning to federal court within a similarly brief interval,  
16 normally 30 days after state court exhaustion is completed").  
17 And if a petitioner engages in abusive litigation tactics or  
18 intentional delay, the district court should not grant him a stay  
19 at all. See id., at 380-381.

14 Rhines, 544 U.S. at 277-78.

15 This action has been stayed for nearly two years to allow Petitioner to exhaust  
16 several of the claims presented in his federal petition. Continuing the stay at this point  
17 would run afoul of the considerations enumerated above and interfere with the Court's need  
18 to manage its docket. While the public policy favors disposition of cases on their merits,  
19 Petitioner has had adequate opportunity to exhaust his claims and return to federal court.

20 Based on the foregoing, it is HEREBY ORDERED that the stay of the instant  
21 proceeding is VACATED.

22  
23 IT IS SO ORDERED.

24 Dated: July 16, 2010

1st Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE

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28 <sup>1</sup>AEDPA refers to the Antiterrorism and Effective Death Penalty Act of 1996.