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SOMACH SIMMONS & DUNN  
Professional Corporation

SOMACH SIMMONS & DUNN  
Paul S. Simmons, Esq. (SBN 127920)  
E-Mail: psimmons@somachlaw.com  
Theresa A. Dunham, Esq. (SBN 187644)  
E-Mail: tdunham@somachlaw.com  
Kanwarjit S. Dua, Esq. (SBN 214591)  
E-Mail: kdua@somachlaw.com  
500 Capitol Mall, Suite 1000  
Sacramento, CA 95814  
Telephone: (916) 446-7979  
Facsimile: (916) 446-8199

Attorneys for Defendant and Third Party Plaintiff  
CITY OF STOCKTON, a municipal corporation

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

COALITION FOR A SUSTAINABLE DELTA,  
a California nonprofit corporation, et al.

Plaintiffs,

v.

CITY OF STOCKTON, a municipal corporation,  
and COUNTY OF SAN JOAQUIN, a political  
subdivision of the State of California,


Defendants.

Case No. 2:09-cv-00466 JAM/DAD

STIPULATION AND ~~PROPOSED~~ ORDER  
FOR CONTINUED STAY OF  
PROCEEDINGS AND JOINT STATUS  
REPORT

**FILED**

APR 2 2012

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY 

-KJN Coalition for a Sustainable Delta et al v. City of Stockton, et al

Doc. 97

Defendants the City of Stockton ("City") and the County of San Joaquin ("County"), and  
Plaintiffs Coalition for a Sustainable Delta, Belridge Water Storage District, Berrenda Mesa  
Water District, Cawelo Water District, North of the River Municipal Water District, Wheeler  
Ridge-Maricopa Water Storage District, and Dee Dillon ("Plaintiffs"), (collectively "Parties")  
submit the following Joint Status Report pursuant to the Court's February 6, 2012, Order filed as  
Docket No. 95.

**I. STATUS OF THE CASE**

On February 23, 2011, this Court issued a Stipulation and Order Staying Proceedings  
(Docket No. 89), staying all proceedings in the case, vacating all dates set by the August 16, 2010  
Order Modifying the Second Amended Status Order (Docket No. 87), and ordering a status report

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be filed on or before August 17, 2011, to inform the Court of the Parties' progress towards settlement. On August 16, 2011, the Parties submitted a Stipulation and Order for Continued Stay of Proceedings and a Joint Status Report (Docket No. 90), informing the Court that the Parties continued to be engaged in settlement discussions, including an agreement to undertake an independent assessment ("Assessment") of portions of Defendants' MS4 program to be performed by an independent consultant approved by the Parties. On August 22, 2011, this Court issued a Minute Order (Docket No. 91) continuing the stay of proceedings, scheduling a status conference for February 21, 2012, and requiring the submittal of a status report on or before October 31, 2011, informing the Court of the status of the Assessment.

On October 31, 2011, the Parties submitted a status report (Docket No. 92) informing the Court that the Assessment was ongoing, but had not yet been completed and that the Assessment was expected to be submitted to the Parties sometime during the week of November 14, 2011. On October 31, 2011, the Court issued a Minute Order (Docket No. 93) instructing the Parties to submit another status report on or before February 3, 2012, providing the Court with a status update.

On February 3, 2012, the Parties submitted a Stipulation and Order for Continued Stay of Proceedings and a Joint Status Report (Docket No. 94) informing the Court that the final Assessment was submitted to the Parties on November 22, 2011, the Parties met with the consultant in December 2011 to jointly review the Assessment and recommendations proposed therein, and that the Parties had since had in-person settlement discussions and exchanged proposed settlement terms that could form the basis of a full settlement in this matter. On February 6, 2012, at the request of the Parties, the Court issued an Order (Docket No. 96) continuing the stay of proceedings, scheduling a status conference for April 20, 2012, and instructing the Parties to submit another status report on or before March 30, 2012, informing the Court of the status of settlement negotiations, whether or not the Parties would like the Court's assistance in mediation, and, if necessary, propose a discovery and trial schedule in the event settlement negotiations have not proceeded satisfactorily.

1 Since that time, the Parties have continued to negotiate in good faith in their attempt to  
2 reach settlement, which has included in-person settlement meetings and the exchange of multiple  
3 settlement documents. While agreement has been reached on many terms, several significant  
4 terms remain to be resolved. Of those remaining issues still to be resolved, the Parties are unable  
5 to reach agreement on the timing and substance of some of those terms as a result of uncertainties  
6 surrounding the City's financial situation. In an attempt to resolve its financial situation, and  
7 establish greater future certainty of its fiscal position, the Stockton City Council recently  
8 approved proceeding under AB 506, a state-mandated confidential neutral evaluation process  
9 involving the City's bond holders, employee unions, and other creditors in an attempt to avoid  
10 municipal bankruptcy. That process is anticipated to occur during the next ninety (90) days, and  
11 its outcome will likely influence the pending settlement discussions. Until that process is  
12 completed, the Parties believe that settlement negotiations during the interim period will not be  
13 productive. The Parties intend to resume negotiations once the AB 506 process is concluded.

14 Given these circumstances, the Parties wish and hereby agree that the stay ordered on  
15 February 23, 2011, remain effective, and that the Parties will submit a further status report on or  
16 before July 27, 2012, informing the Court of the status of the settlement negotiations, including  
17 an update as to the outcome of the AB 506 process. The Parties further request that the Court  
18 reset the status conference currently scheduled for April 20, 2012 in this matter to August 15,  
19 2012. Notwithstanding the stay, the Parties desire to retain the existing ability to reinstate  
20 litigation in the event settlement negotiations become unreasonably delayed or otherwise fail.

21 **II. STIPULATION**

22 NOW THEREFORE IT IS HEREBY STIPULATED by and among the Parties that:

23 A status report will be submitted on or before July 27, 2012, informing the Court of the  
24 status of settlement negotiations, including an update as to the outcome of the City's AB 506  
25 process.

26 The status conference scheduled for April 20, 2012 is vacated.

27 A status conference will be held on August 15, 2012, to further inform the Court of the  
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Parties' progress towards final settlement. In the event settlement negotiations have not proceeded satisfactorily, such time shall be used to determine dates for mediation, if appropriate, and set discovery and trial dates.

///  
///

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DATED: March 30, 2012

By /s/ Kanwarjit S. Dua  
Kanwarjit S. Dua

Attorneys for Defendant CITY OF STOCKTON

BARG COFFIN LEWIS & TRAPP, LLP

DATED: March 30, 2012

By /s/ Joshua A. Bloom (as authorized on 3/30/12)  
JOSHUA A. BLOOM

Attorneys for Plaintiffs Coalition for a Sustainable Delta, Belridge Water Storage District, Berrenda mesa Water District, Cawelo Water District, North of the River Municipal Water District, Wheeler Ridge-Maricopa Water Storage District, and Dee Dillon

DOWNEY BRAND LLP

DATED: March 30, 2012

By /s/ Nicole E. Granquist (as authorized on 3/30/12)  
NICOLE E. GRANQUIST  
Attorneys for Defendant County of San Joaquin

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**ORDER**

Having considered the Parties' Joint Status Report and stipulated request to schedule a status conference, and GOOD CAUSE appearing therefore, the Court hereby orders the following:

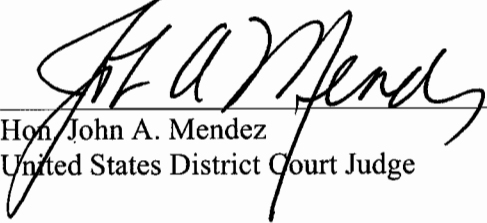
A status report will be submitted on or before July 27, 2012, informing the Court of the status of settlement negotiations, including an update as to the outcome of the City's AB 506 process.

The status conference scheduled for April 20, 2012 is vacated.

A status conference will be held on August ~~15~~<sup>22</sup>, 2012, to further inform the Court of the Parties' progress towards final settlement. In the event settlement negotiations have not proceeded satisfactorily, such time shall be used to determine dates for mediation, if appropriate, and set discovery and trial dates. *No further requests for stay will be granted. Jan*

IT IS SO ORDERED.

DATED: 4-2- \_\_\_\_\_, 2012

  
\_\_\_\_\_  
Hon. John A. Mendez  
United States District Court Judge