

## November 6, 2006: Judge Rejects Stockton Water Privatization Project

Judge Elizabeth Humphreys of the San Joaquin County Superior Court handed down her ruling late last week in a case challenging the City of Stockton's massive water privatization Contract with OMI/Thames Water Stockton. The Court concluded that the OMI Contract violated state environmental law -- and found that the City Council must rescind its resolution approving the Contract "in its entirety." Under the Court order, the City may not consider reapproving the Contract without first conducting environmental review as required by law. The Court further found that the City could resume municipal operations and management of the City's water utilities within 180 days.

"The decision by the Court is a huge victory for Stockton and indeed for all of America," said Sylvia Kothe, Chair of the Concerned Citizens Coalition of Stockton. "Adherence to environmental quality review is essential if water is to remain a public resource -- one that is conserved and protected from pollution."

The City's water privatization Contract with OMI has been the source of intense controversy since its approval in February 2003. Under the \$600-million Contract, the City turned over to the private company virtually *every aspect* of the municipal water, wastewater and stormwater utilities for a period of 20 years. The Contract also includes some \$58 million worth of capital improvements. Despite the evidence of significant environmental harm that could result from the project, the City did no environmental review prior to approving the Contract.

In 2003, the Concerned Citizens Coalition of Stockton, the League of Women Voters of San Joaquin County, and the Sierra Club filed suit to overturn the Contract. In January 2004, Judge Bob McNatt of the San Joaquin County Superior Court ruled in favor of the Coalition, ordering the City to rescind the Contract. That ruling was later vacated, however, to enable the Court to examine additional legal arguments advanced by the City and OMI. Subsequently, the case was transferred to Judge Humphreys.

In the present ruling, Judge Humphreys states that the Court has "review[ed] the entire history of this litigation . . . and determined that the Petition is correct and the requirements of CEQA [the California Environmental Quality Act] have not been met." In particular, the Court found that "[t]here is substantial evidence in the administrative record to demonstrate that transfer of the City's water utility operations for 20 years will have a significant environmental impacts."

"This is a sweeping legal victory for anyone committed to protecting water quality in the City of Stockton," said Dale Stocking for the Sierra Club. "Hopefully, it will encourage the City to follow environmental mandates in the future--and to understand that City officials are ultimately accountable to the public for their decisions."

The City of Stockton and OMI can now either accept the Court's decision or appeal. According

to Rachel Hooper of Shute, Mihaly & Weinberger LLP, lead counsel for the conservation groups, "the judge's ruling reflects a very careful reading of the law and a mastery of the factual record of this case. We are confident that the decision would withstand any appeal by the City and OMI."

**Contacts:**

Sylvia Kothe, Concerned Citizens Coalition of Stockton: 209-464-1004

Diane Park, League of Women Voters of San Joaquin County: 209-477-7193

Dale Stocking, Sierra Club: 209-471-3113

Rachel Hooper, Shute, Mihaly & Weinberger LLP: (415) 552-7272

For a copy of the Court's decision, email Rachel Hooper at: [hooper@smwlaw.com](mailto:hooper@smwlaw.com)