

# 2<sup>nd</sup> Annual Service Contract Compliance Review

Service Contract for  
Water, Wastewater and Stormwater Operation and Maintenance  
Capital Improvements

Period August 1, 2004 through July 31, 2005

prepared for

Concerned Citizens Coalition of Stockton



February 2006



Annual Contract Compliance Review  
For the period August 1, 2004 through July 31, 2005

February 2006

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## **Introduction**

*(Information presented in this review has been gathered from various public documents. Information comes from annotated City Council minutes, OMI-Thames Water Stockton monthly reports, and other information gathered via the Public Records Act. Where applicable documents can be viewed in the Appendix.)*

This is the second Contract Compliance Review of the Service Contract between the City of Stockton (City) and OMI-Thames Water Stockton, Inc. (OMI). It is presented as a review of selected key performance objectives and as an observance of OMI-Thames Water behavioral attitudes. The first Review released in December 2004 covered the following topics:

**Contract Administrative Memoranda #3** - an agreement between the City and OMI to waive Article IV Section 4.3(7) thereby allowing OMI-Thames Water to exit the Transition Period and begin the Commencement Period. Article IV Section 4.3(7) stated in the event of any legal proceedings that would “challenge, or might challenge, directly or indirectly, the authorization, execution, delivery, validity or enforceability of this Service Contract” that OMI would not be permitted to enter the Commencement Period of this Service Contract. Both parties knowing a legal proceeding was, and as of the date of this publication, is still proceeding, waived this requirement.

**Water and Wastewater Rates** - while not part of the Service Contract, customer rates were directly effected by the Service Contract. Within the Service Contract there are provisions for automatic annual service fee adjustments. Customer rates and fess were restructured with automatic annual increases to produce the necessary revenue to cover these annual service fee adjustments.

**Customer Service** - the Service Contract made specific requirements regarding customer service that were to be completed during the Transition Period. Failure to meet the customer service requirements meant OMI would not begin the Commencement Period.

**Staffing** - spoke specifically to the inadequacy of OMI-Thames Water’s ability to maintain long tenured operations and maintenance staffs.

“Unaccounted For” Water – the Service Contract specifically states in Article VII Section 7.8 that the unaccounted for water shall not exceed 3.5%. Graphs illustrated OMI-Thames Water’s inability to meet contract standards for lost water.

Maintenance - exposed OMI-Thames Water’s attitude and behavior regarding specific contract required maintenance.

Standard Operating Procedures – the Service Contract required SOPs to be completed during the Transition Phase. SOPs are integral in implementing the Computerized Maintenance Management System (CMMS). The CMMS is necessary and responsible for the predictive, preventative, and corrective maintenance scheduling.

Violations simply spoke to the cost of OMI-Thames Water’s inability to comply with laws and regulations, resulting in fines during the first year of performance.

As with the First Review, it is important to know something regarding the timeline and the events that surround the privatization of the operation, maintenance and initial capital improvements contract between the City of Stockton and OMI-Thames Water Stockton, Inc.

During the 1990’s, the City of Stockton embarked on a staged expansion project to upgrade the Regional Water Control Facility (RWCF). In 1998, the consideration of having the private sector build and operate the RWCF surfaced and in 1999 there was serious discussion of possible private operation as compared to the Municipal Utilities Department (MUD) business plan. The process of evaluating the privatization of the MUD began in 2000 with the selection of consulting firms to aid the city. Three private companies were selected to make proposals and in October 2002, OMI/Thames was selected as the preferred provider with which the City would negotiate the RWCF upgrade and MUD operation and maintenance.

During the discovery period, a group of concerned citizens and community organizations formed a coalition to observe the entire process to ensure that the citizens’ utility services were protected and the rates citizens paid would remain low.

In November 2002, the Concerned Citizens Coalition of Stockton (CCCoS) qualified a ballot measure allowing the citizens of Stockton to decide whether or not they wanted a private company operating their municipal utilities. The campaign gathered signatures from more than 18,000 registered voters and Measure F was placed on the March, 2003 ballot. Measure F would require any operation and/or maintenance contracts in excess of \$5 million to be placed before the voters.

On February 19, 2003, two weeks prior to the March 2003 election, Stockton's City Council voted 4-3 to enter into a Service Contract for Wastewater, Water and Stormwater Utilities, Capital Improvements and Maintenance with OMI/Thames Water Stockton, Inc (OMI). By signing this contract prior to citizen vote, the contract would be exempt and the outcome of the election would apply only to contracts after the election date. This action pre-empted and ignored the wishes of the citizens to have a formal say in the outsourcing process.

Measure F passed overwhelmingly, 60% to 40%. Following the City Council action, CCCoS began circulating a referendum petition to overturn the Council's action. The referendum effort failed to gather the required number of signatures within the 30-day time limit.

Along with the Sierra Club, the League of Women Voters of San Joaquin County, the CCCoS sued the City Of Stockton for failure to follow the California Environmental Quality Act (CEQA). The City of Stockton has tried to separate the operation and maintenance of the city's water, wastewater, and stormwater utilities from the cost and build-out of the Initial Capital Improvements (ICI) in its interpretation of the project contract. We are presently in litigation over the implications of their argument that the contract could be split. Below is a timeline of the legal proceedings:

October 17, 2003, San Joaquin County Superior Judge McNatt ruled in the Concerned Citizens Coalition of Stockton' favor.

January 14, 2004 the judgment and writ were signed which then was followed by the City and OMI/Thames filing an appeal with the State 3rd Court of Appeal, along with a writ of supersedeas to allow them to continue to build the initial capital improvements (ICI's) while the case was pending – an action the judge forbade.

March 12, 2004 at the 11th hour Defendants filed a brief asking for new trial based on CA Code Section 5956. Judge McNatt orders new trial.

March 2005 State Appellate Court sends CEQA lawsuit back to Superior Court Judge McNatt for new trial to address Code Section 5956.

Since the completion of the first Contract Compliance Review the lawsuit referenced above was returned to San Joaquin Superior Court. As of this report the hearing schedule is pending and will not be addressed in this report. Documents related to this lawsuit can be found on the Concerned Citizens Coalition of Stockton website: [www.cccos.org](http://www.cccos.org).

The purpose of this report focuses on the performance and failings that have transpired in the day-to-day operations, since the City officially entered into what they call a "service contract" with OMI. It does not address the contract's capital improvements.

This Second Review will again address ***Water and Wastewater Rates, Customer Service, Staffing, Unaccounted For Water, Maintenance and Standard Operating Procedures***. In addition ***Sanitary Sewer Overflows (SSO's)*** will be included.

The CCCoS continues the task of monitoring the Service Contract. Information provided in this report is only a small portion of the items held up for review in this second year.

The data was gathered from OMI's monthly reports, which are required by the Contract. The reports are public information. Since OMI took over the operation and maintenance of the Municipal Utility, the monthly reports have been inconsistent in their manner of presentation. Neither OMI nor those monitoring the Contract for the benefit of the City and its citizens has developed a standard report format. However, more current reports

seem to be reaching standardization, but discovery of compliance with the contract via these reports is difficult at best. As large companies, OMI and Thames Water, who are involved in this type of operation in other parts of the United States and the world, there was an assumption and expectation that reporting would be simple, consistent and complete. Accountability for the lack of consistency with the required monthly reports must also rest with the City of Stockton and those responsible for monitoring this contract.

## **Contract Monitoring**

Prior to Contract signing, then Mayor Gary Podesto, the City Council and City Management assured the citizens of Stockton that there would be qualified personnel to monitor the implementation of this 900+ page Contract document. Citizens were also guaranteed the Contract was structured to protect their investment in their Municipal Utility. As of the writing of this report there has been a change of Mayor, three new City Council Members and the City Manager. For the nearly three years that this contract has been in force, no qualified individual or manager has been designated to monitor the contract. Consequently there remains no consistent oversight and OMI is not held accountable to the mandates of the contract. It is imperative that this City management assign an individual or manager with the primary responsibility to understand all the intricacies of this contract and who will hold OMI accountable for their responsibilities.

City management continues to fail to provide a structure by which the Contract can be monitored. From a citizen's perspective, since the inception of this contract in February 2003, not one progress report has been made to the Council or the public regarding the expenditure of City revenue for the service provided via this Contract. Other than a few statements given during the annual budget study sessions, no "*for the record*" public report has ever been presented by Stockton City staff.

The presentation of this 2<sup>nd</sup> Annual Contract Compliance Review is provided for the benefit of the residents of Stockton and those monitoring the Service Contract between the City and OMI. It is noted that in most cases the time frame reference is August 2004

through July 2005 inclusive. Discrepancies in Contract fulfillment may have been met since these dates. For those areas that have not been met, there have been no consequences for OMI. This Contract spells out what is required and the consequences as well. Within the Contract the consequences for non-compliance are minimal. In many cases it may be more cost effective to pay the consequence than to comply with the Contract.

The Service Contract is a single contract covering the operation and maintenance, initial capital improvements, and asset management. This Review focuses on the asset management, and the operation and maintenance. City Staff should be monitoring the ongoing initial capital improvements.

As a mention of format, at the beginning of each review subject some definitions and excerpts from the Service Contract appear. Service Contract information is in Times New Roman font.

*Note: Subsequent Annual Contract Compliance Reviews, due to an agreement between the City and OMI-Thames Water Stockton, will follow the City's fiscal calendar, July through June.*

This review has been completed by BBC Consulting at the request of the Concerned Citizens Coalition of Stockton, a community coalition.

## **Contract Administrative Memoranda**

Article XVII Section 17.2 (B)

**Contract Administration Memoranda.** The principal formal tool for the administration of matters arising under this Service Contract between the parties shall be a “Contract Administration Memorandum.” A Contract Administration Memorandum shall be prepared, once all preliminary communications have been concluded, to evidence the resolution reached by the City and the Company as to matters of interpretation and application arising during the course of the performance of their obligations hereunder. Such matters may include, for example: (1) the determination of the specific relief to be given the Company under Section 15.2 on account of an Uncontrollable Circumstance; (2) the determination of the specific amount of any increase or decrease of the ICI Design/Build Price or the Service Fee to which the Company is entitled under any provision of this Service Contract (including the parties’ agreement as to the treatment and designation of the payment of any Extraordinary Item under subsection 13.7(B)); (3) issues as to the meaning, interpretation, application or calculation to be made under any provision hereof; (4) notices, waivers, releases, satisfactions, confirmations, further assurances, consents and approvals given hereunder; and (5) other similar contract administration matters.

There will be times when Contract requirements need interpretation and better clarification. In order to document and make legally binding such interpretations, the Contract addresses this need via Contract Amendment Memoranda. Article XVII, Section 17.2 (B) describes the purpose and use of Contract Amendment Memoranda (CAM). During this review period there were several CAMs covering the following areas:

- 1. FIND CAMs 2004-05**

## **Water, Water Connection and Wastewater Rates**

A principle reason for all outsourcing contracts is cost. The City hired a third party consultant, Alternative Resources Inc. (ARI), to ensure that the outsourcing project would be approved and implemented. A principle argument in favor of outsourcing, presented by ARI, was that costs for the services of maintenance and operation would remain low and that the City would experience a savings during the life of the Contract. Residents and users were assured that water and wastewater related rates would remain low.

Not all the fees paid to OMI for the day-to-day operations are fixed. The Service Contract contains two annual adjustments to the fees that the City pays to OMI. These Contract-mandated fee adjustments are tied to different variations of the commonly understood Consumer Price Index (CPI). The two components are (1) the fixed service fee, which covers everything in the Contract except (2) the energy fees. These fee adjustments cannot be applied until 2005.

The fixed service fee is adjusted by a figure called CPI-A, which is the unadjusted CPI for ALL URBAN CONSUMERS, all items, except energy. This number is derived using figures reported to the Bureau of Labor Statistics from the entire United States.

The energy fee adjustment is based on CPI-B, which is the CPI for energy in San Francisco-Oakland-San Jose California.

With this information as background, in June 2003 the City Council, under the advisement of the Assistant City Manager Gary Ingraham (now retired) and City Manager Mark Lewis, approved an annual fee increase and adjustment to the water, wastewater and water connection fees residents pay. This new resolution put into place a first year increase of 2.5% and an annual adjustment tied to a CPI index factor. The argument was made that the CPI used for the consumer rate increase is the same as

what is used in the Service Contract with the outside vendor. However, the CPI index factor for the rate increase is in fact a third index, called CPI-C.

CPI-C is defined as the unadjusted Consumer Price Index for ALL URBAN CONSUMERS for ALL ITEMS, U.S. city average. The timeframe for this index is the December 1 through November 30 of the year preceeding the rate increase. For example: the CPI value ending November 2004 would be implemented June 2005. As a reference, the fiscal year 20-year historical averages (as of December 2004) of the three CPI indexes are:

<b>CPI-A</b>	<b>3.18</b>
<b>CPI-B</b>	<b>3.07</b>
<b>CPI-C</b>	<b>3.04</b>

For the 20-year annual historical data of the CPI indexes, see Appendix CPI or visit [www.bls.gov](http://www.bls.gov).

*Note: City Management and their consultant ARI stated in public meetings that although the Contract contained Fixed and Variable Fees adjustments, with outsourcing, residents would experience only a 7% increase in the fees they pay over the life of the Contract vs. a 39% increase under municipal operation.*

<b>Utility related rates have risen:</b>	
<b>2003-2004</b>	<b>2.5%</b>
<b>2004-2005</b>	<b>2.3%</b>
<b>2005-2006</b>	<b>3.7%</b>
<b>TOTAL increase since Service Contract inception: 8.5%</b>	

Rates and rate increases have been included as part of this Review so that Stockton residents are fully aware that the only reason their water related rates increase annually is because of a negotiated component of the Service Contract.

For additional information see Appendix for:

June 24, 2003 annotated minutes Agenda item 9.03

Resolution 03-0361; Resolution 03-0362

CPI Descriptions according to U.S. Department of Labor, Bureau of Labor Statistics

# Customer Service

## Section 5.15

**CUSTOMER SERVICE.** 2005-2007 Generally. The Company shall provide customer service for the System in compliance with the requirements of this Section and the performance standards set forth in Appendix 14. On or before the Commencement Date, the Company shall develop and submit for approval to the City five copies of a customer service manual which shall be consistent with this Section and Appendix 14. Upon approval by the City, the Company shall implement the procedures set forth in the customer service manual. The customer service manual shall be revised as necessary from time to time, subject to the approval of the City as provided herein. Any disagreement between the parties as to the content of the customer service manual shall be resolved in accordance with Section 14.11.

(A) Customer Service Requirements. The Company shall perform the customer services in accordance with the requirements of Appendix 14, and the customer service manual shall address the following minimum requirements:

(1) The Company shall maintain a staff dedicated to assisting customers. The customer service staff shall be trained to answer questions related to the System.

(2) The Company shall establish and maintain toll-free customer service hotlines to allow customers to ask questions, raise issues and lodge complaints.

(3) The Company shall establish and maintain a 24-hour per day toll-free hotline, with adequate capacity and personnel, that will be answered at all times by a person and not a voicemail or other automated recorder, for the receipt of reports of emergencies relating to the System.

(4) The Company shall establish and maintain at least one customer service center to be located at the Plant Site and with hours of operation to be approved by the City, such approval not to be unreasonably withheld.

(5) The Company shall respond to customer questions and complaints in accordance with the standards set forth in Appendix 14.

The Company shall respond to emergencies in the System, including back-ups, water main breaks, stoppages, spillages and leaks, in accordance with the standards set forth in Appendix 14.

Service Contract lays out what OMI is to provide to the residents of Stockton in regards to customer service. Residents are to have and OMI is to provide:

- A trained dedicated staff to answer customer questions regarding the Municipal Utility
- A 24-hour per day toll-free hotline, staffed by a person AT ALL TIMES, to allow citizens to report emergencies, ask questions, raise issues and lodge complaints.
- A Municipal Utility System website capable of customer inquiries
- Five copies of a customer service manual to be delivered to the City on or before the Commencement Date (*due August 1, 2003*).

- A public outreach and education campaign designed to inform customers generally about the scope, nature and extent of the City's operations. This plan shall be developed and implemented in accordance with requirements of Appendix 6. It shall be submitted within 180 days of the Commencement Date (*due date January 27, 2004*).

So important was this issue of Customer Service, that the establishment of a Commencement Date could not be met without the approved Customer Service Manual and the establishment of the 24-hour hotline. Customer Service is mentioned in no less than 4 sections of the Service Contract (Section 5.15, Appendix 4, Appendix 6 and Appendix 14).

For the **second year in a row** OMI-Thames Water has failed to meet this component of the contract and the failure of enforcement by the City with regards to Customer Service. There remains:

- No trained dedicated staff to answer customer questions regarding the Municipal Utility
- No 24-hour per day toll-free hotline, staffed by a person AT ALL TIMES, to allow citizens to report emergencies, ask questions, raise issues and lodge complaints.
- No Municipal Utility System website capable of customer inquiries
- No public outreach and education campaign.
  - Note: The City has a full time employee dedicated to Stormwater outreach and education to meet its NPDES permit requirements. This is NOT an OMI position nor a substitution for the Service Contract Customer Service requirement.

After two years of operation, little has been done to correct the contract deficiencies regarding the customer service requirements that should have been met by August 1, 2003 (Commencement Date) and January 27, 2004 (180 days post Commencement Date).

For those who have access to the Internet, requirements state a website is to be maintained capable of customer inquiries. First place to look would be the City of Stockton website, [www.stocktongov.com](http://www.stocktongov.com). This Citywide site includes links to all City Departments and services. If you know how to navigate through the website and end up at the Municipal Utility Department site, under wastewater, there is mention that City

utility services are privately operated by OMI. The link on this page takes you to OMI's homepage. There is no web page for OMI Thames Water Stockton, Inc.

This Internet requirement has not been met, even as late as January 2006. During the many meetings held for this outsourcing project, former Mayor Podesto repeatedly assured residents they would receive quality service from OMI.

Looking at the obvious, the telephone book, under City of Stockton government offices page, remembering services are under Municipal Utilities Department, the first number is for Emergencies. This number, 937-8341 reaches the Public Works Service Center and receives calls for water and sewer, as well as traffic signals, stop signs and other emergencies. After business hours this number is answered by a recording that requires transfer or re-dialing a phone number that will connect the caller to the City Fire Dispatch. This is a CITY phone number. The Service Contract clearly defines Customer Service 24-hour hotline as a component OMI is to provide. Former Mayor Podesto stated many times, in public meetings, that this number was always to be answered by a local person.

The complexity of the Service Contract is to protect the physical assets that make up the Municipal Utility as well as define, for OMI, the type and quality of service to be delivered. The details of the contract spell out for OMI and the City exactly what both parties expect. If any section of the Service Contract were questionable, Contract Administrative Memoranda (CAMs) exist as a means of clarification. Since there are no CAMs relating to customer service, it must be clear what is expected and has been agreed upon.

Since the City of Stockton is still paying the costs of the Customer Service function, a responsibility of OMI, there is no cost savings to the City. Not providing Customer Service as defined in the Contract is a failure on behalf of OMI and the City.

The last bullet point from above, lists public outreach and education. Developing a plan to inform residents of the scope and nature of the City's services is critical, especially when a private, profit-oriented vendor performs the operation of the Municipal Utility. The City currently pays OMI in excess of \$1.6 million per month. Understanding what services are provided is paramount, thus the need for a public outreach and education program. According to Appendix 14 Section 4.0:

The Company shall develop and implement, during the Term of this Service Contract, a public outreach and education campaign designed to inform customers generally about the scope, nature and extent of the City's operations. ***The public outreach and education shall be subject to the review and approval of the City. The Company's plan for this shall be developed in accordance with the requirements of Appendix 6 and shall be submitted within 180 days of the Commencement Date.***

During the Contract year public outreach reported *three separate tours of University of Pacific students.*

OMI has provided no campaign to reach out to the Stockton residents and educate them on services available as part of their utility fees, including who to call when there is a problem regarding their water related utility services.

## Staffing

Section 5.7 of the Service Contract

STAFFING AND PERSONNEL TRAINING. [A] Staffing. The Company shall staff the Managed Assets during the Term of this Service Contract with qualified personnel who meet the licensing and certification requirements of the State, under a staffing plan which is consistent with the Contract Standards. The Company shall notify the City of any material change in staffing levels and positions from time to time, and shall not make any such material change if the new staffing level or staffing positions would adversely affect the ability of the Company to provide the Contract Services.

### **From Appendix 6, Section 4.0**

The Company shall provide a staff of qualified, certified and experienced employees in accordance with the Company's Staffing Plan (to be provided during the Transition Period) and Applicable Law and shall provide such additional third-party support as may be needed to perform its duties and obligations hereunder. Said third parties shall be equally qualified for the particular services to be performed.

The Company shall at all times maintain the necessary number of employees, staff and third-party contractors to operate, maintain and manage the Managed Assets in accordance with the Service Contract, to adequately maintain the Managed Assets in good repair, to adequately operate the Managed Assets to provide quality service to the customers, and to meet Contract Standards in order to protect the health, welfare and safety of the citizens of the City.

The Company shall provide: (i) qualified management, supervisory, technical, laboratory, and operating personnel, licensed and/or certified as required by the State of California for operation and maintenance of the Managed Assets; (ii) a System Manager for day-to-day supervision; (iii) specialists, on-site or as part of a technical support group, as necessary, in water, wastewater, stormwater process control, instrumentation, trouble shooting, emergency management, and similar circumstances; and (iv) office and clerical support staff as necessary.

The Company shall provide a technical support group that will provide on-call backup advice, expertise and quality control, management, maintenance and facility repair to assist the operational staff and ensure performance of obligations hereunder, to assist in the design and construction of any improvements to the Managed Assets and to support the provision of Billing Services. The Company's technical support group shall also provide assistance in the investigation, development and implementation of modifications in the processes as may be appropriate or necessary for regulatory compliance, worker safety, or process improvement. The Company's staff at the Managed Assets and the technical support group shall also provide support to the City in planning efforts for the Managed Assets in response to regulatory issues and in financing of improvements.

The Company shall provide and maintain an organizational chart that lists job classification, the number of staff proposed for the transition phase and for the full-time operation. The Company shall notify the City of any proposed revisions to the Staffing Plan and/or personnel organization for the Managed Assets.

The following individuals in Table 6-5 are initially approved and represent the Company’s staffing commitment for senior management roles in accordance with the definition of the Service Contract.

**Table 6-5**

**INITIAL COMPANY STAFFING COMMITMENT**

<b>Name</b>	<b>Position</b>	<b>Duration</b>
Wyatt Troxel	General Manager and Company’s Contact Person	100% Committed for a minimum of first three years; will live in Stockton.
C. Peter Lee	Operations Manager	Contract Term
To be Determined	Chief Plant Operator	Contract Term
To be Determined	Water Superintendent	Contract Term
Ruth Pauling	Senior Staff	Contract Term
Larry D’Addio	Senior Staff	Contract Term

The City shall have the right to disapprove the individuals designated from time to time by the Company as the Service Manager, and other key managers as defined in the following Table, to manage and oversee the services to be provided under this Service Contract; provided, however, that said disapproval shall not be exercised unreasonably.

From the inception of the outsourcing process, Staffing has been an issue. The emotional stress for existing employees has been evident. The Request For Proposal (RFP) released by the City Council stated that the City would retain certain employees and others would be transitioned from municipal employment to a private sector employer. The complexity of change in benefits and services available to those transitioned employees was to be resolved during the Transition Period. The benefits to those employees were to be equal or better than what was available to said employees under municipal employment. This Annual Contract Compliance Review will not cover

whether or not the terms of the contract were met, as much of this information is privileged under Human Resource confidentiality rules.

Section 5.7 of the Service Contract states summarily that OMI will provide a qualified trained staff, sufficient to meet the needs of the Service Contract. On the Commencement Date the number of employees, as reported on page 22 of the August 2003, Monthly Operations and Maintenance Report, was 112; 102 for field operations and 10 for administration.

As reported on page 49 of the July 2005, Monthly Operations and Maintenance Report there were 121 employees; 101 for field operations and 20 for administration.

OMI is continually recruiting for open positions. Throughout their tenure as operators, employee retention has been a problem. At Commencement Date there was a 4.5% turnover for the month of August, their first month, leaving seven vacant positions. Two years later, five vacancies.

At one point, February 2005, there were **13 vacancies** in the staffing plan. This **included 5 operators and 2 maintenance employees** The problem created by turnover is a plant specific unqualified, unknowledgeable staff. As long-term knowledgeable employees leave or retire institutional memory provided by staffing consistencies is deteriorating at the Stockton Municipal Utility. OMI has had qualified operator vacancies nearly every month in the water and wastewater divisions.

Consistency of staff was a concern for the City Council and addressed by OMI. Article 5 Section 5.5 spells out specific time commitments to be maintained by OMI senior representatives. Even though there are provisions within the Service Contract illustrating some exceptions for the time commitment, during the procurement process, OMI representatives promised they would be mindful and honor the time commitments within Section 5.5. The two most prominent senior positions are the General Manager and the Operations Director.

The proposed General Manager, Wyatt Troxel made public his commitment to the tenure requirements. Mr. Wyatt Troxel reneged on his time commitment and was replaced by Mr. Gary Nuss. Within two years, two General Managers.

Article 5, Section 5.5 (B) of the Service Contract states the initial Operations Director would be **Mr. C. Peter Lee** and he would have an initial term of not less than three years from the Commencement Date. Mr. Lee never made it to Stockton.

The next Operations Director was Dennis Burrell,

Then Dennis DeCoite,

Then Greg Meinzer.

During the two calendar years of OMI's operation, there have been **FOUR** Operations Directors.

It should be noted that OMI has also has TWO different Directors of Business Services AND TWO different Directors of Technical Services.

Tenure commitments, especially from the senior staff, is necessary to ensure continuity of implementation and operation. OMI has not demonstrated their ability to provide continuity of leadership.

## **“Unaccounted For Water”**

**“Unaccounted-For Water”** is defined as that portion of the Finished Water entering the Water Distribution System that is not delivered to water customers, determined using the methodology set forth in Appendix 6.

**“Finished Water”** means Purchased Water and Well Water, in each case treated to the standards required by Applicable Law prior to conveyance to the Water Distribution System.

**“Water Distribution System”** means the City’s potable water distribution system and the real property on which the above-ground structures constituting part of such system are located, as described in Appendix 1, consisting generally of pipes, pumping stations, wells, storage reservoirs, mains, valves, treatment works, distribution facilities and equipment, together with all improvements thereto acquired, installed, constructed or reconstructed from time to time.

In a simple statement, “unaccounted-for water” is the water purchased and treated for usage by consumers, and during delivery is lost. Every drop of water that Stockton’s Municipal Utility provides to its customers is tracked. The utility meters, or measures, all the water that enters the system. This water comes from several different sources and the Utility keeps track of the origin of its water.

When water is delivered to customers, it passes through meters also to measure how much water various customers are using. Water billing utilizes these meter readings to construct the appropriate billing information.

The Service Contract in Appendix 6, Section 1.1.5, bullet point #9 states that OMI is to *“minimize the quantity of Unaccounted-for Water in the Water Distribution System so that it does not exceed 3.5%. OMI is also to provide to the City, annually, a calculation of the quantity of Unaccounted-for Water in accordance with the method described in Attachment 3 to this Appendix 6.”* The full details of Attachment 3 from Appendix 6 can be viewed in this report’s Appendix.

In determining Unaccounted-for Water (UAC), the following formulas and calculations shall apply:

$$UAC_N = \left( \frac{TP_N - TUR_N - WHOLE_N}{TP_N} \right) \times 100$$

Where,

$UAC_N$  = Unaccounted-for Water in percent for year N

$TP_N$  = Total Potable Water for year N.

$TUR_N$  = Total Urban Retail for year N.

$WHOLE_N$  = Wholesale of water for year N.

This is by far the easiest and least subjective area of contract performance. In fact, as a baseline, the 2001 Unaccounted-for Water report was attached to the Service Contract. The following results have been calculated using the results from the City's reports (see the 1999-2004 Stockton Public Water System Statistics in the Appendix) and OMI's monthly reports.

Under municipal operation, from 1999 to 2002, using the 2001 format presented in the Service Contract, the UAC has had a range of 2.65% to 3.95%. OMI assumed modified operations on February 2003 and formal operations August 1, 2003.

**Calendar year 2003 UAC is 7.48%.**

**Calendar year 2004 UAC was 6.63%.**

Every year the City is required to submit, and sign, a report, to the California Department of Water Resources, entitled Public Water System Statistics. According to this report for the seven calendar years of municipal operation, immediately preceding

implementation of the Service Contract (ending with calendar year 2002), the average annual unaccounted-for-water was:

**1996-2002**  
**3.49%**

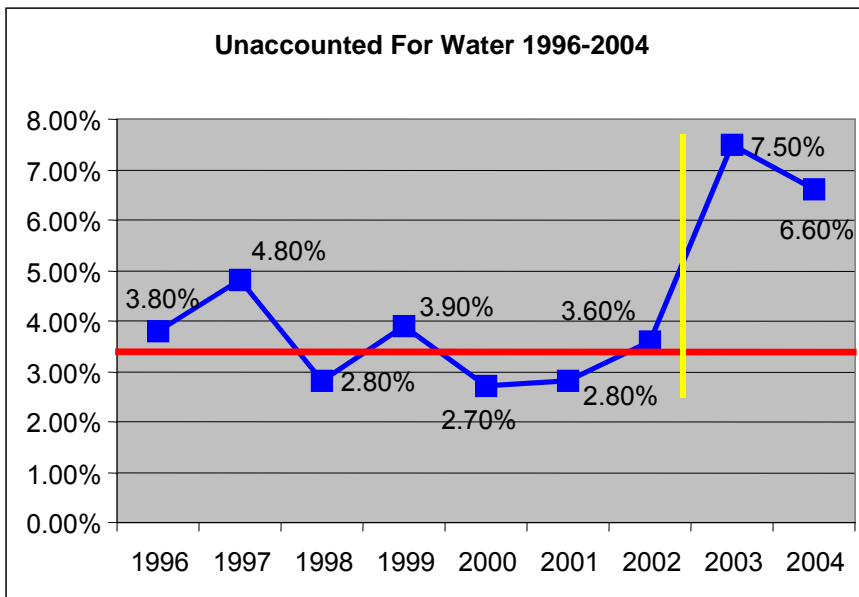
In the two calendar years of private operation unaccounted-for-water was:

**2003-2004**  
**7.05%**

This percentage, 7.05%, can be translated into gallons of water lost and number of customers that could have been served. OMI's unaccounted-for-water, above the allotted 3.5%, for the calendar years 2003-2004 is:

**798 million gallons**  
**or**  
**enough water to serve 11,000 residents**

The following graphs depict the previously mentioned results.



**3.5% requirement**  
**Unaccounted for water**  
**OMI-Thames takeover**

What can be ascertained from this empirical data is that using OMI and outsourcing the distribution of the City's water resources, ***water loss has doubled.***

Lost water can translate into any number of "bad news" scenarios, but in summary it can be said that lost water:

- Wastes a resource we can not afford to waste
- Costs more money to produce water for usage
- Depletes aquifers of water that could have been banked for future use
- Jeopardizes future water resources. If we can't keep track of what we use now, why would the State Water Resource Board grant additional water rights to the City in the future?

## **Standard Operating Procedures and Computerized Maintenance Management System.**

Any company can “say” it has the knowledge and skill level to correctly operate the Stockton Municipal Utility. The real proof is in “walking the talk.” The operation, ongoing maintenance and repair and replacement are covered, in detail, in Article V & VIII, as well as Appendices 4, 6 & 7. For the stakeholders of the Municipal Utility this is the most important set of provisions within the Service Contract.

There exists in the Service Contract a timeline. For some it may be as hidden as the Knights Templar treasure, but when the pieces of the puzzle are laid together, the Service Contract has clarity. A previous section of this Review, discussed the importance of qualified staff. It was also mentioned that the staff needed to be knowledgeable about the Stockton facility. It is safe to say that no two wastewater treatment plants or water distribution systems are alike. Each has its own variations and uniqueness. Institutional knowledge about Stockton’s facility is important.

Here is the timeline of events required by the Service Contract. It cannot be stressed enough that OMI agreed to all the conditions of the Service Contract. Without specific written documentation (i.e., CAMs) that clarify interpretations or change Contract requirements, the City and OMI can be held in violation of the Service Contract.

Appendix 4 is titled Transition Plan Standards. These are all the requirements that were to be completed prior to Commencement Date. This Appendix in theory gave the City an opportunity to actually “see” that OMI had the capability to perform the Contract standards. It provided a safe, low cost exit opportunity for the City if OMI could not meet the strict Contract standards. Appendix 4, 2.0 Specific Transition Services states:

“The Company's Project Transition Manager and O&M Startup and Transition Manager will be in place on the Contract Date in order to implement the Transition Plan.

From the Contract Date to, and including, **the day preceding the Commencement Date, the Company shall be responsible for meeting** the requirements of Section 4.1 of the Service Contract...”

These two paragraphs can be understood by any prudent individual to mean... this is what you must do BEFORE the City releases the Municipal Utility to its vendor... BEFORE the Commencement Date (August 2003).

One of the many items that was to have been completed is:

- **Establishing** standard operating procedures (SOPs) specific to the Managed Assets

The instrumental word is ESTABLISHING. Standard Operating Procedures (SOPs) are the methods to be utilized by OMI's employees, for the safe and correct operation and maintenance of ALL the managed assets. The process for the establishing the SOPs was:

- OMI to submit to the City, for review and approval, draft SOPs
- City Staff would review and return the draft SOPs to OMI for finalization
- OMI delivers the final versions to City Staff.

This function had a deadline – **Commencement Date**. The SOPs were to validate that that OMI in fact really did know how to run the sophisticated municipal plant and water distribution system in Stockton.

In order to meet the deadline of Commencement Date, OMI provided 50 two-page SOPs created at other sites that they provided as proof they could operate the utility and they delivered these as originals. Thirty days after submission, **these documents were returned to OMI as unacceptable.** ***OMI representatives informed the City that they were not capable of completing the SOPs and have hired a third party vendor to complete this requirement.***

At the time of this Review (July 31, 2005), and stated in the Monthly Reports from OMI, the SOPs still **have not been completed.** Although the documents provided by the

third party vendor thus far are described as excellent, the SOPs have not been completed. (Note: in December 2005, OMI submitted the final set of SOPs)

OMI failed to complete the SOPs in time for City review and comment. Evidence that they could in fact manage the operation of the facility had not been provided. Allowing the Commencement Period to begin without SOPs, the City violated its own Contract provisions and risks the possibility that OMI cannot operate the facility properly.

The next step in the timeline was the creation and implementation of a Computerized Maintenance Management System (CMMS). Section 8.4 titled Computerized Maintenance System states:

The Company shall install, maintain, upgrade, repair and replace, as appropriate throughout the Term, a computerized maintenance management system capable of providing a record of repair and replacement of the Managed Assets on a detailed, item-by-item basis; scheduling, carrying out, monitoring and controlling predictive, preventive and corrective maintenance programs; monitoring routine operations within the Managed Assets; issuing work orders and purchase orders; maintaining a spare parts inventory; and issuing exception, equipment status and repair priority reports. The computerized maintenance management system shall be installed and operational within 90 days following the Commencement Date, shall be developed consistently with the Managed Assets Registry, shall constitute part of the Managed Assets, and shall be modified as and when appropriate during the Term to take account of removals from and additions to the Managed Assets. The Company shall utilize the computerized maintenance management system to provide the City with documentation which allows it to efficiently monitor compliance by the Company with its maintenance obligations hereunder. The City shall have computer-based real time, read-only access to such system. The Company shall permit all electronic data to be replicated and provided to the City for review by the City Engineer.

The definitive clauses of this section are “installed and operational within 90 days following the Commencement Date.” The deadline for this operation was on or around October 29, 2003. This new CMMS was to replace the old HTE system the City had been using. The new system would modernize the ongoing maintenance program and in effect, be more efficient.

But in order for the CMMS to be completely functional two activities had to occur. First OMI had to review the existing operation and maintenance manuals provided by the manufacturer and second, complete the SOPs. Together these two activities created

the customized methodologies for the management, operation and maintenance of the entire managed assets.

This is a huge task. The managed assets include the main plant, the tertiary plant, the water distribution system and the stormwater system. The uniqueness of the Stockton system cannot be mentioned often enough. The deadline dates set for OMI, in reality, are probably unrealistic. However, the need to have completed the steps to validate the ability to maintain the manage assets is very realistic. While OMI failed to meet its obligation, the City failed in providing realistic timeframes.

The third and final step in this timeline of events is the Operation and Maintenance Manual. The Contract wording seems misleading. The word “manual” is pluralized and the inference is that OMI is to write new Operation and Maintenance Manuals for each piece of equipment. This is not the case. The Operation and Maintenance Manual is described in Section 1.1 Terms as:

“Operation and Maintenance Manual” means the manual and related computer programs prepared by the Company containing detailed standard operating and maintenance procedures and other specific instructions, policies, directives, routines, schedules and other matters relating to the Management Services, developed and maintained as required by Article V and Appendix 6.

And further vendor and City responsibilities are described in Section 5.6:

#### OPERATION AND MAINTENANCE MANUALS.

(A) Development. The Company shall provide to the City five copies of **draft Operation and Maintenance Manuals within 180 days following the Commencement Date.** Prior to the City’s approval of the draft Operation and Maintenance Manuals in accordance with subsection (B) of this Section, the Company shall use and follow the procedures set forth in the City’s operation and maintenance manuals for the Managed Assets. The content of the Operation and Maintenance Manuals shall be consistent with the Contract Standards, shall contain a detailed description of the means and methods of properly operating the Managed Assets and all sampling, testing and measurement procedures, shall document predictive, preventive and corrective maintenance procedures, practices and schedules, and shall otherwise be sufficiently detailed to permit the Managed Assets to be operated and maintained by a third party reasonably experienced in wastewater treatment, water distribution and stormwater collection; and shall be reviewed and approved by the appropriate Governmental Body in accordance with Applicable Law. The Operation and Maintenance Manuals shall be developed and maintained in a manner which is fully consistent with the computerized maintenance management system installed and

utilized by the Company pursuant to Section 8.4. The Contract Services shall be performed substantially in compliance with the Operation and Maintenance Manuals and the Company's computerized maintenance management system.

(B) City Review and Approval. **The Company** shall review and discuss in good faith with the City any aspect of the draft Operation and Maintenance Manuals, and **shall deliver the final Operation and Maintenance Manuals to the City within 60 days following completion of review and approval by the City**. The Company shall keep the Operation and Maintenance Manuals current and shall supply the City with appropriate updates, supplements or revisions thereto annually or at any earlier time that a material change to the Operation and Maintenance Manuals is made, to be reviewed and approved in accordance with the procedures described in this Section. Such updates shall preserve the standards set forth in the initial Operation and Maintenance Manuals. Notwithstanding any such review and approval by and discussion with the City, **the Operation and Maintenance Manuals shall remain at all times the responsibility of the Company**. Neither the review of or approval by, nor the failure of the City to review, comment on, or approve the Operation and Maintenance Manuals shall: (1) relieve the Company of any of its responsibilities under this Service Contract; (2) be deemed to constitute a representation by the City that operating the Managed Assets pursuant to the Operation and Maintenance Manuals will cause the Managed Assets to be in compliance with this Service Contract or Applicable Law; or (3) impose any liability upon the City.

Again, the principle clauses are (1) provide to the City five copies of draft Operation and Maintenance Manuals **within 180 days following the Commencement Date**, (2) shall deliver the **final Operation and Maintenance Manuals to the City within 60 days following completion of review and approval by the City**.

The Operation and Maintenance Manuals refer to the parts of the whole. For example, the Managed Assets (the whole) is made up of (the parts) the Main Plant, the Tertiary Plant, the Collections System and Water Distribution, to name a few. The Manuals describe how "the parts" work together for an efficient "whole."

These Manuals must have City input and review for several reasons:

- City owned assets
- City money spent for capital improvements
- City's responsibility to assure residents, organizations and governmental agencies that OMI will, in fact, operate within the guidelines of applicable laws.

To review the timeline: (1) establish the standard operating procedures by the Commencement Date; (2) install and maintain a computerized maintenance

management system starting 90 days after the Commencement Date; and (3) deliver to the City draft Operation and Maintenance Manuals 180 days after Commencement Date and the final versions 60 days after City review and approval of the draft documents. Any step not completed throws the timeline into disarray. From the beginning OMI failed to complete the very first step of the process.

As a comment, these sections of the Service Contract comprise the guarantees demanded by the City and agreed upon by OMI. It was during the outsourcing process that Mayor Podesto, Mr. Ingraham and Mr. Lewis referenced these sections of the Contract as the guarantees for high quality delivery of services. The residents of Stockton must rely on the City retained employees, under the direction of Municipal Utility Department Director Mr. Mark Madison, for direct monitoring of the operation of the plant and the maintenance of the managed assets. Entrusting the Municipal Utility to be operated and maintained by a private profit motivated contractor, as if it were their own property, requires disciplined and deliberate methodologies of monitoring. The standard operating procedures, computerized maintenance management system and the Operation and Maintenance Manuals make it possible to monitor, and hold accountable, OMI.

Without strict monitoring processes, the quality of service and the condition of the managed assets could deteriorate quickly. Since the City is currently embroiled in a lawsuit, monitoring at this present time is paramount so as to assure City residents their assets are protected. If the courts rule against the City, vigilant monitoring will ensure that the Municipal Utility will be returned to municipal operation in a condition equal or better than when the Commencement Period began.

The benefit of the maintenance timeline within the Service Contract will provide for the City a baseline for maintenance procedures. OMI has been given the opportunity to develop a schedule of maintenance that will be efficient, effective and serve the City, as well as the terms of the Contract.

## Maintenance Operations

Within the Contract, Appendix 6, Section 1.0, the Operations and Maintenance of the Managed Assets begins with 35 specific requirements within the General section. Following the General requirements are the other sections detailing the water, wastewater and stormwater system requirements.

Sections 1.1, 1.2 and 1.3 of Appendix 6 are the detailed requirements for preventative, predictive, corrective and emergency repair and replacement. The complexity of the maintenance operations is complicated further by OMI and the City's failure to complete the maintenance procedure timeline described in the Service Contract.

The designed functionality of the computerized maintenance management system is to provide both scheduling and monitoring transparency. For the City to validate that OMI is conducting operations as required, it is important and necessary to have transparency and openness. The vagueness of the present reporting process makes compliance a difficult task at best. Without full understanding of the Service Contract and the complete working knowledge of the Municipal Utility, the general citizenry must trust the City Staff.

Two examples of items that have NOT been completed as of August 2004 and which had due dates prior to August 2004 are:

- Sanitary and Stormwater **preventative maintenance procedures** have yet to be developed
- Scheduling of the Operations Staff at the Main Plant and the Tertiary have yet to be completed

And this should be no surprise. Failures noted in this Review previously, means failure in this section. Without the development of preventative maintenance procedures and incomplete scheduling of Operations Staff, one could extrapolate that OMI has no sense of order in the maintenance function. Since there have been no reports delivered to City Council regarding the performance of the Service Contract, one might also

extrapolate that City Staff, City Management and the City Council have no idea whether the services they pay \$1.6 million per month are being performed.

There can be no argument that OMI can say it has no funds to allocate for ongoing repair and replacement maintenance. Built into the Fixed Service Fee is \$650,000 (indexed beginning in the second year of the Contract) dedicated to cover the repair and replacement of the managed assets. The residents of Stockton's water related fees provide for the repair and replacement activity. In the event of any repair or replacement in excess of the \$650,000, the City is responsible for this expense as well. This method of dealing with repair and replacement, City pays Fixed Fee and City is responsible for excess of Fixed Fee funds, is the reason this Contract is an outsourcing vs. a partnership agreement.

Lack of scheduling capability and failure to develop maintenance guidelines creates a "management by crisis" style of operation. This method of management creates opportunities for work to go unfinished or backlogged.

If not addressed, backlogs can get out of hand. Monitoring of compliance with maintenance procedures falls directly upon Mr. Madison and his staff. As an example, from the July 2005 Monthly Report from OMI, the following scheduled maintenance repairs are **backlogged**:

1. Main Treatment –
  - a. Mechanical 41%
  - b. Electrical 56%
  - c. Engines 100%
2. Sanitary Pumping –
  - a. Mechanical 22%
  - b. Electrical 50%
3. Tertiary
  - a. Mechanical 50%
  - b. Electrical 37%
4. Stormwater Pumping –
  - a. Mechanical 82%
  - b. Electrical 100%

On page 45 of the July 2005 Monthly Operations & Maintenance Report, the first bullet point states that the HTE-PM system is out of service. This validates that the CMMS is not yet operational.

Within the Water Distribution System there is a piece of equipment called a Backflow Device. The Service Contract spells out the required maintenance for equipment necessary to operate the Municipal Utility. These devices have an inspection and test schedule.

As an example of poor performance, the February 2005 Monthly Report from OMI contains the following data pertaining specifically to the Backflow Devices:

Beginning number of backlogged orders	584
New work orders received for the month	180
Number of work orders completed	267
Remaining backlogged orders	497

**The results are that 62% of the Backflow device inspections and testings are backlogged.**

Further examples of other backlogs reported from the February 2005 Monthly Report are:

<u>TASK</u>	<u>% Backlog</u>
Water Production Maintenance	
<b>Preventative</b>	
Mechanical	70%
Well Flushing	67%
<b>Corrective</b>	
Mechanical	22%
Structural	50%
<b>Corrective Maintenance Work Orders</b>	
Small meter TR Repair/Replace	34%
Small meter DR Repair/Replace	57%
Small meter backyard Repair/Replace	11%
Meter Box Trim	15%
Meter Box Lid Replace	24%
Meter Box Replace	75%

Large Meter Repair/Replace	93%
Large Meter Raised/Lowered	100%
Water Service Line Manifold R/R	17%

**Average Corrective Maintenance Backlog 33%**

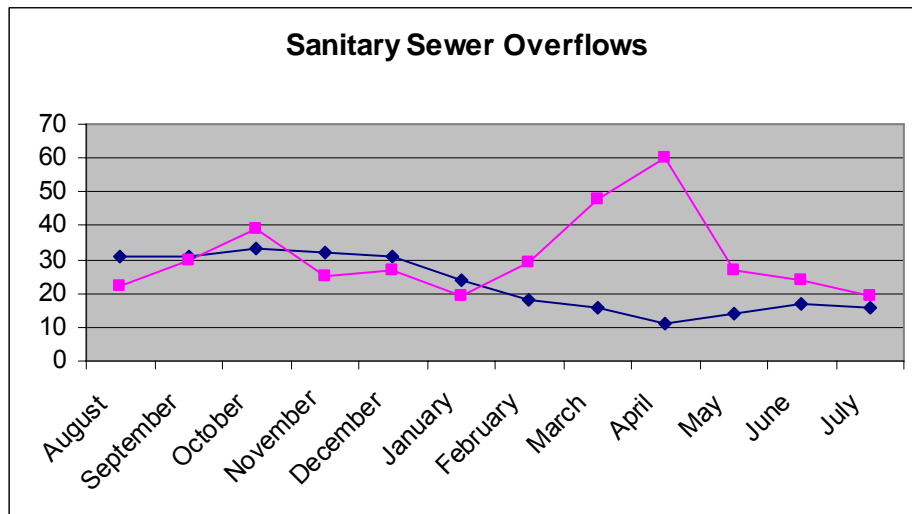
The intent of Operations and Maintenance Standards lies in the language related to the termination of the Service Contract. The Managed Assets are to be returned to the City for municipal operation at the end of the 20-year term of the Contract at a weighted life equal to 95% or better. In other words, the City is giving OMI high quality assets, and the City wants them returned in the same condition. But the City has no concrete methodology in place to hold OMI accountable for its actions. The City Staff's disregard for the very Service Contract they drafted, will come back to haunt them.

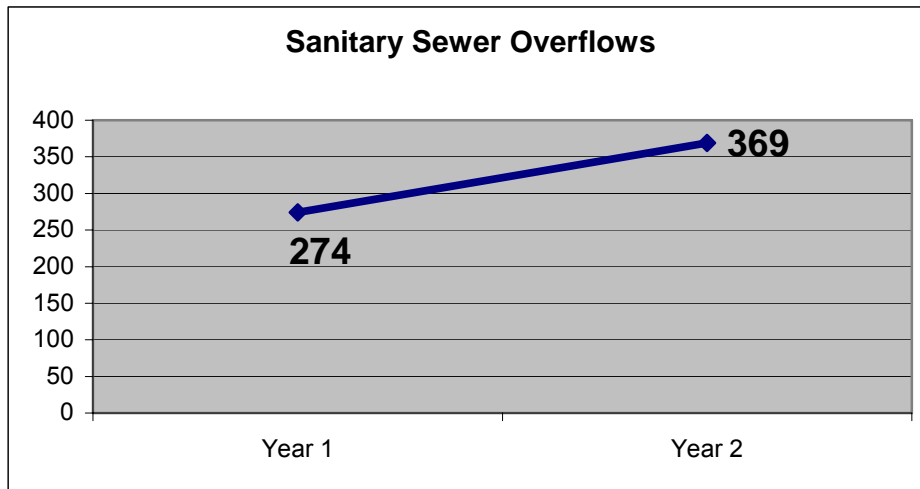
## Sanitary Sewer Overflows (SSOs)

From the Executive Officer's Report, 17/17 October 2003, Central Valley Water Board... "In October 2003 the Central Valley Water Board issued a report addressing the Sewage Collection System Spills for the City of Stockton. Since February 2002, the City reported 495 Sanitary Sewer Overflows (SSOs). Of that number, 15 overflowed into surface water bodies. Thirty-three SSOs were over 1000 gallons. The City has provided prompt response and clean up of the sewage spills. However, staff (Water Board) has concerns with the City's sewer system maintenance and repair/replacement program to prevent sewage spills. Staff has requested that the City develop an SSO Emergency Response Plan, and may consider requiring additional actions to prevent SSOs." This report covers both Municipal and private vendor operations.

The City Staff has created the required Emergency Response Plan and is in the final stages of revisions and approvals. The report from the Water Board provides a baseline for monitoring future SSOs and whether OMI is providing enough preventative maintenance to address the spill situations. With proper monitoring by the City Municipal Utility Department time will tell if services are being provided at an adequate level.

The following graphs detail how well OMI has dealt with the SSO problem plaguing Stockton (blue = year 1; magenta = year 2)





The above graph shows an increase of 34% (95 total) SSOs reported in the first two years of the Service Contract. It must be noted that the City reported ALL SSOs, regardless of size. OMI changed procedures and reports only SSOs of certain volume. The primary causes of SSOs seem to be debris and grease. OMI stated in a letter to Operating Engineers Local #3 that there is no contractual MONTHLY requirement for sanitary lines. As such, they are only required to flush the system on a three year cycle. With no CMMS in place to target problem areas, it is no wonder SSOs have increased.

What is evident in the treatment and prevention of SSOs is that the City failed to set standards at a sufficient level to meet the demands of the Water Board. Thereby allowing OMI to provide a service level LESS than what was provided under municipal operation, and still be contractually sufficient. In their haste to complete the Service Contract prior to the March 2003 ballot measure (Measure F), the City let OMI off the hook for our SSO problem.

## Conclusion

In the First Review, an emphasis was placed on the process of transition; from municipal to private and Transition Period to Commencement Period. OMI Thames Water Stockton has had the opportunity to right their behaviors and prove that the missteps in the first year were not patterns of behavior, but rather a “getting to know one another” period.

The City and OMI present a picture of the private operation as a good thing. An endeavor that has no contract failures. For if there were areas in the Service Contract where OMI failed to meet their contractual obligations, with nearly \$1.6 million each month being paid to OMI, surely the City would take action.

It is our observation, that consistently, OMI fails to meet their contractual responsibilities and City representatives have failed in their fiduciary responsibility in managing the performance of OMI, considering the uninterrupted payment of taxpayer and utility users fees paid.

The outsourcing of the municipal operations was a one-sided event. The idea that municipal service could be more efficient and that reduced costs could provide lower stable rates, never had a chance for public discussion. Nor did it produce its desired effect. For the residents of Stockton their user specific utility rates have risen by 8.5% in the first two years of the Service Contract.

This Review is not a complete analysis of the Project, it was not intended to cover every facet. This Review, unfortunately, is a hindsight evaluation. Changes occur in the contract without public notification, including the City Council. For example, modifications of the Service Contract occur with the signatures of Mr. Lewis, City Manager, Mr. Madison, Director of the Municipal Utilities Department and Mr. Gary Nuss, General Manager for OMI. These changes in the Service Contract are not brought before the City Council, nor do they need the Council’s approval.

Similar to the First Review the City Staff presently at the Municipal Utility is not looking at the Contract for compliance, but rather is diverting their eyes as if they had blinders, still and again.

In summary, this review revealed

*Contract variance* – the Service Contract was created to protect the investments the residents have made in their utility over the past decades of municipal operation. The Service Contract had a series of checks and balances to protect the City, the residents, and OMI. As illustrated in the section on Contract Administrative Memoranda,

FIND THE CAMs and finish

*Water Related Rates* – have continued to increased. The idea that water related rates would remain at present levels, without increases, is not possible. The Municipal Utility system is in need of modification for modernization, efficiency, and state mandated regulations. But the then sitting City Council used a report from their consultant and publicly stated, many times, that under private operation rates would remain low. The Service Contract did not raise utility rates. The City Council did, as a consequence of the Service Contract.

The City derives revenue from its municipal utility, both for the General Fund and City wide capital improvement projects. The Service Contract has an annual fee increase component. The fees paid by residents flows into enterprise funds, funds designed to keep revenue received dedicated to utility purposes. The City then TRANSFERS funds from the enterprise funds into the General Fund and a specific capital improvement fund 307, the Infrastructure Improvement Fund. In order that these transfers continue AND that there be funds left for specific utility improvements, rates must increase.

The result of the outsourcing is a guaranteed adjustment annually to the utility related rates. The historical Consumer Price Index used to track the annual adjustments has only risen in each of the past 20 years. Common sense would say to expect the same for the next 20 years. Contrary to what the City Council, City Management and Alternative Resources, Inc declared, local utility rates will potentially increase by 63%, simply because of the contract Fixed Service Fees.

Utility rates will undergo further increases. To pay for required upgrades it may become necessary that bond financing be presented as one strategy to pay for the needed improvements. Should bonds be needed to fund improvements, they will be tied to the Municipal Utility enterprise and thereby create another layer of rate increases.

*Customer Service* – is what was demanded by Mayor Podesto, promised by OMI and agreed upon by Contract. This statement appeared in the First review and cannot be emphasized enough. This was a promise made to the citizens of Stockton. The simple matter is there STILL is no Customer Service. Outsourcing today creates concerns for many citizens in many areas, not just our utility.

The Service Contract is very specific about what services OMI is to provide. OMI has continued to fail at providing any customer service or any outreach/education. This utility Service Contract is not the only private vendor contract that the City has. As was stated in the First Review..."Sunrise Sanitation and Stockton Scavenger. These providers have delivered an enormous amount of public education, outreach and assistance regarding the City's trash and green waste program. One just needs to attend any number of City sponsored events, and these vendors [are] present giving assistance to citizens. They even have local numbers publicized on the City's website if there are specific questions or problems."

OMI has provided no customer service. It is our opinion that this promise of customer service was a "bone thrown to the dogs." There was never any intent to provide customer service or a fully implemented public outreach program. At what point does

the City require OMI to produce the results specifically stated in the Service Contract and paid for over the last two years.

*Unaccounted-For Water* – is double in less than two years. As with the First Review, “the methodology for determining unaccounted-for water is an agreed upon process. Using the only historical data available from the Municipal Utility Department, the UAC is significantly greater than under municipal operation.”

The City of Stockton’s Service Contract requires a 3.5% level of unaccounted-for water. Control over unaccounted for water demonstrates the City and OMI’s belief that our water resources are limited and conservation is imperative.

Control over water flows can be beneficial to the municipal utility as well. Using less water can mean lower electrical and fuel costs to deliver the water to Stockton customers. This could create more profit for OMI.

By meeting the standard set by the Contract, OMI also has an opportunity to set an “efficient water use” example and demonstrate that they can be a steward of the environment. If OMI had a developed outreach program, they could provide residents with methods on how to lower their water bills through conservation and efficiency.

With less water flowing through the system it tends to lower the risk of backflows and system liability, reduce wear on the equipment and have the potential to expand the system connections without necessarily seeking new water sources. These issues mean all mean lower rates for residents, the sole purpose for outsourcing

*Staffing capabilities* – is a most blatant violation of the Service Contract. Everyone from the CEO of OMI to the OMI General Manager to the City Council made commitments to staffing continuity. Simply stated this has not even begun to be achieved. In our opinion OMI’s inability to keep employees on this project and their difficulty in maintaining a full complement of employees necessary to fulfill all the components of the Service

Contract speaks loudly about OMI's inability to perform even to simplest of contract responsibilities, operate with a fully trained and tenured staff.

*Maintenance* – required a set of procedures and a computerized program. As of this writing there still is no complete set of standard operating procedures and therefore no computerized maintenance management program. Efficiency in operation and maintenance was a proclamation shouted loudly by proponents of this Service Contract. In our opinion, with the lack of a set of standard operating procedures and no fully implemented computerized maintenance program it will only be a matter of time before those who know this utility begin to see its demise. Predictable, preventative, and corrective maintenance is essential to keeping the integrity of the City's utility. Without procedures and scheduled maintenance the wastewater plant and its outlying infrastructure may face expensive reconstruction.

*Sanitary Sewer Overflows* – have plagued Stockton for quite sometime. The Regional Water Board directed the Municipal Utility Department to address and construct a plan of action to reduce the overflows. Knowing this issue was present, at the time of signing the Service Contract, it is a bit puzzling why the City would contract with a partner who's track record for sewer overflows in their own country is abysmal. Looking at the general lack of contract performance in many areas, in our opinion, it's no wonder that sewer overflows are on the rise.

The behavior of OMI Thames Water Stockton is very much like that of many individuals driving down our roads and highways. There is a posted speed limit, 35, 55, or even 65 mph. It doesn't take long to see drivers ignoring the speed requirements. Many drivers are stopped, given a ticket for their violation, appear in court and then pay their fine. Then get back in their car and drive away from the courthouse, over the speed limit. OMI has demonstrated this same behavior.

In the first year of their operation they hired a private contractor to build a well. This contractor paid no attention to the “posted speed limits” and the result was a fine to the City for \$125,000. OMI paid the fine, but then continued the same pattern of behavior.

Until some county or state agency or some City staff member says “Enough!!!”, OMI will continue to break Service Contract requirements. If no one says anything why should they change? OMI receives \$1.6 million per month for their services. Not one person with the responsibility or authority to change OMI’s behavior has PUBLICALLY stepped forward and demanded compliance.

In our opinion, the failure of OMI to meet their contractual requirements AND the failure of the City to hold OMI accountable, demonstrates a gross negligence. On behalf of the citizens of Stockton, it is our hope that those who see the problems described in this report and have the authority and ability to make changes, do so.