

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. 79-166

NPDES NO. CA0037842

AN ORDER AMENDING ORDER NO. 77-107

AND RESCINDING ORDER NOS. 78-57 AND 78-92 FOR:

CITIES OF SAN JOSE AND SANTA CLARA
SAN JOSE/SANTA CLARA WATER POLLUTION CONTROL PLANT
SANTA CLARA COUNTY

The California Regional Water Quality Control Board (hereinafter Board), San Francisco Bay Region, finds that:

1. This Board adopted Order No. 77-107 on July 19, 1977, prescribing waste discharge requirements for the Cities of San Jose and Santa Clara (hereinafter discharger). Order No. 77-107 contains a compliance time schedule prohibiting the present and future discharge of wastes to waters of South San Francisco Bay or its tributaries south of Dumbarton Bridge. This discharge prohibition implements the Board's adopted Water Quality Control Plan for San Francisco Bay Basin and the State Board Policy for Enclosed Bays and Estuaries.
2. This Board adopted Order No. 78-57 on July 18, 1978 prescribing a revised compliance time schedule for compliance with the prohibition of discharge of wastes to waters of San Francisco Bay or its tributaries south of the Dumbarton Bridge.
3. This Board adopted Order No. 78-92 on November 21, 1978 prescribing interim discharge limits and a revised compliance time schedule for construction of tertiary treatment facilities. These treatment facilities have been completed and the discharger has demonstrated that, when properly operated, the facilities can achieve compliance with discharge requirements.
4. The discharger and the Cities of Sunnyvale and Palo Alto are members of the joint powers authority named the South Bay Dischargers Authority (SBDA). The SBDA is the lead agency for the construction of necessary facilities, such as a joint outfall north of Dumbarton Bridge for all three member agencies and is preparing an Environmental Impact Statement (EIS) for the proposed project. The SBDA is also investigating the possibility of requesting an amendment to the Basin Plan and State Policy to allow treated wastes to be discharged to San Francisco Bay south of Dumbarton Bridge.
5. Order No. 78-57 provides for the submittal of a final EIR/EIS and a time schedule for compliance with the discharge prohibition by March 30, 1979. The Order further required that if the Final EIR/EIS recommended a project which would not provide for compliance with the prohibition that the discharger was to submit a petition with rationale requesting an exemption and/or amendments to the Basin Plan necessary to implement the recommended project.

6. The final EIR/EIS has been delayed due to administrative problems within EPA regarding the review, approval and printing of the draft document. Additional delays have occurred in completing the final EIR/EIS. These delays have been beyond the control of the discharger who has acted in good faith and appear to be reasonable. The delays have caused the discharger to violate the compliance date in the NPDES Permit for submittal of the final EIR/EIS. Section 301(i)(1) of the Federal Water Pollution Control Act allows extensions of the 1977 statutory deadline under these circumstances.
7. The discharger has demonstrated that treatment plant upsets can occur and that these upsets can have a significant adverse effect on the receiving waters and beneficial water uses. These effects are magnified because of the location of the discharge which does not provide for any significant dispersion or dilution capability. One reason for the prohibition is to provide some dilution and dispersion capabilities in the event of a treatment plant upset.
8. The issuance of revised waste discharge requirements for this discharge is exempt from the provisions of Chapter 3 (commencing with Section 21000) of Division 13 of the Public Resources Code in accordance with Water Code Section 13389.
9. The Board has notified the discharger and interested agencies and persons of its intent to prescribe revised requirements for the discharger.
10. The Board, in a public meeting, heard and considered all comments pertaining to this discharge.

IT IS HEREBY ORDERED, pursuant to the provisions of Division 7 of the California Water Code and regulations adopted thereunder, and to the provision of the Federal Water Pollution Control Act, as amended, and regulations and guidelines adopted thereunder, that the discharger shall comply with the following:

- A. Provision E.2.b. of Order No. 77-107 is amended to read as follows:

Provision E.2.b.

Compliance with Prohibition A.1. (prohibiting waste discharge to San Francisco Bay south of Dumbarton Bridge) shall be achieved as follows: Submit a Final EIR/EIS by May 26, 1980, and time schedule to comply with Prohibition A.1. by June 9, 1980. If the discharger in its Final EIR/EIS recommends a project not in compliance with the Basin Plan, the discharger shall submit a petition to the Regional Board by June 9, 1980, requesting those exceptions and/or amendments to the Basin Plan needed for the discharger's recommended project to achieve compliance. The discharger's petition shall also contain the rationale for the proposed exceptions and/or amendments either directly or by reference to the Final EIR/EIS. The rationale shall provide documentation that the proposed project will provide for a level of environmental protection against the adverse effects of a treatment plant upset equivalent to that which would be provided if a project to comply with the prohibition of discharge was constructed.

B. Within 120 days of the date of adoption of this order, the permittee shall submit a proposed compliance schedule for the development of a pretreatment program to this Board and EPA. When the schedule is approved by the Regional Board and EPA, the permit shall be modified to include the approved compliance schedule.

C. This Board's Order Nos. 78-57 and 78-92 are hereby rescinded.

I, Fred H. Dierker, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on December 18, 1979.

FRED H. DIERKER
Executive Officer