

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER NO. 93-134

CITY OF ALAMEDA
CITY OF ALBANY
CITY OF BERKELEY
CITY OF EMERYVILLE
CITY OF OAKLAND
CITY OF PIEDMONT
STEGE SANITARY DISTRICT
ALAMEDA AND CONTRA COSTA COUNTIES

REVISING AN ORDER (ORDER NO. 86-17) REQUIRING THE ABOVE CITIES AND SANITARY DISTRICT TO CEASE AND DESIST DISCHARGING WASTE FROM THEIR SEWER SYSTEMS CONTRARY TO REQUIREMENTS PRESCRIBED IN ORDER NOS. 89-150, 89-151, 89-152, 89-153, 89-154, 89-155, ALL NPDES PERMITS, AND CONTRARY TO THE REQUIREMENTS OF THE SAN FRANCISCO BAY BASIN PLAN AND THE PORTER-COLOGNE WATER QUALITY CONTROL ACT

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

1. On September 19, 1984, the Board adopted Order Nos. 84-64, 84-65, 84-66, 84-67, 84-68, and 84-62, (NPDES Permit Nos. CA0038474, CA0038491, CA0038466, CA0038512, CA0038504, and CA0038482, respectively) prescribing requirements for the discharge of sewer system overflows by the Cities of Alameda, Albany, Berkeley, Oakland, Piedmont, and the Stege Sanitary District. Waste Discharge Requirements were not issued to the City of Emeryville because it was believed that no overflows of untreated wastewater occurred in that community. It was subsequently determined that inflow and infiltration within the boundaries of the City of Emeryville contribute to the overflows at locations outside Emeryville. The Cities of Alameda, Albany, Berkeley, Emeryville, Oakland, Piedmont, and Stege Sanitary District are hereinafter referred to collectively as "the communities".
2. On March 19, 1986, the Board adopted Order No. 86-17 requiring the communities to cease and desist discharging untreated wastewater from their sanitary sewer collection system contrary to the requirements prescribed in Order Nos. 84-64, 84-65, 84-66, 84-67, 84-68, and 84-62.
3. On September 20, 1989, the Board adopted Order Nos. 89-150, 89-151, 89-152, 89-153, 89-154, and 89-155 revising requirements for the discharge of sewer system overflows by the communities.
4. The community-owned sanitary sewer collection systems experience wastewater overflows and bypasses during wet weather. These overflows and bypasses occur when sewer

capacity is exceeded as a result of inflow and/or infiltration of rain water. The discharges contain pollutants, and occur at several locations within the sanitary sewer system tributary to the East Bay Municipal Utility District, Special District No. 1 (the District) interceptor sewers. Some overflows are conveyed underground into the storm sewers by means of bypasses to keep streets from flooding. Most of the overflows, however, pass up through manhole covers into streets, or other public places and in some places, overflows occur on private properties. All these flows bypass treatment and ultimately run downhill to creeks and Central San Francisco Bay, all waters of the United States.

5. Many sewer overflows occur each year near schools, playgrounds, hospitals, and shopping areas. These overflows create unsanitary conditions and present a serious sewage-borne disease potential to those who may be exposed to it.
6. Overflows have high concentrations of coliform bacteria. Receiving water quality objectives for water-contact recreation and shellfish harvesting are routinely exceeded during wet weather in the vicinity of overflows, due to both overflows and urban runoff. The overflows and urban runoff therefore adversely impact beneficial uses including shellfish harvesting, fishing, water contact sports, and pleasure boating. In view of the intensive beneficial uses, the potential for contact with contaminated water is very high.
7. Excessive Infiltration/Inflow of rainwater also forces the District's interceptors to bypass treatment facilities and to overflow at one or more of seven shoreline locations approximately 10 times each year. These overflows contain pollutants and discharge into San Leandro Creek and Elmhurst Creek which are tributary to San Leandro Bay, and Temescal Creek and Cerrito Creek, which are tributary to Central San Francisco Bay.
8. The Board issued a separate NPDES permit to the District requiring elimination of untreated overflows from its interceptor system to protect water quality in San Francisco Bay. The Board also issued a separate Order requiring the District to cease and desist discharging wet weather overflows from its interceptor system which is also in violation of the requirements prescribed in an NPDES permit.
9. The communities (with the exception of Emeryville) are currently violating the following provisions of their respective NPDES permits, cited above:
 - o Discharge Prohibition 2 (all discharges to receive treatment)

- o Provision 1 (discharge of pollutants shall not create a nuisance, defined in the California Water Code to include any condition which may be injurious to health)
10. The communities are also violating the following Basin Plan prohibitions: (a) discharges which do not receive a minimum initial dilution of 10:1, (b) discharges into deadend sloughs or confined waters, and (c) discharges of raw sewage to any waters of the Basin (see Chapter 4 of Basin Plan).
 11. In 1980, the communities and the District initiated the 6-year East Bay Infiltration/Inflow (I/I) Study to develop recommendations which outlined long range sewer improvement programs and compliance plans for each community. The \$16.5 million I/I Study was funded under the Clean Water Grant Program with state and federal support paying about 87.5% of the costs. The compliance plans dated October 8, 1985, proposed a 20-year plan to implement the East Bay Infiltration/Inflow Correction Program (ICP) to eliminate wet weather overflows from the communities' sanitary sewer system. The total program cost was estimated at \$304.4 million (1985 dollars).
 12. The design goal of the I/I Correction Program is to eliminate overflows from the communities' and the District's collection system unless rainfall exceeded a 5-year storm event. The overall program was initially intended to be implemented over a 20-year period. The projects were staged over 20-years because of the capital costs associated with the entire program was too high for rate payers to incur over a short period of time, grant funding of the entire program was unlikely, and the management and logistics of the construction activities involved were politically and administratively complex. The occurrence of overflows will decrease as the communities' programs are implemented. Overflows and bypasses, however, may continue to occur until the entire I/I Correction Program is complete.
 13. On February 13, 1979, the communities and the District entered into a Joint Powers Agreement (JPA) under which the District served as administrative lead agency to conduct the Infiltration/Inflow (I/I) Study. The JPA was amended on January 17, 1986 to designate the District as the lead agency during the initial five year implementation phase of the I/I Study recommendations. The amended JPA delegated authority to the lead agency to apply for and administer grant funds, to award contracts for mutually agreed upon wet weather programs, and to perform other related tasks. Programs developed under the JPA are directed by a Technical Advisory Board (TAB) composed of one voting representative from each of the communities and the District, and one non-voting representative from each of the following: The

Regional Board, the State Water Resources Control Board, and the United States Environmental Protection Agency.

14. The communities received Clean Water Grant funding for the first two years of the I/I Correction Program to initiate the program and allow the communities time to raise rates to cover costs. The communities have since raised rates, in some cases up to 350%, to cover the cost of these capital improvements.
15. Measures to control sewer system overflows take two forms: (1) comprehensive rehabilitation to reduce infiltration and inflow of water, and (2) construction of relief sewers parallel to, or as replacements of, existing trunk sewers. These relief sewers make it possible to convey peak flows to the treatment facilities.
16. The communities started implementing the East Bay Infiltration/Inflow Correction Program (ICP) in 1987. They have completed a significant number of projects to date and have also gained significant experience in implementing the ICP. New technological developments and the inadequacy of other methods previously thought viable for sewer rehabilitation and relief sewer installation have increased the cost of the ICP from original estimates. The increase in project costs requires either an extension of the communities' programs or substantial rate increases to generate funds for these programs. As a result, all the communities except Emeryville submitted a revised Compliance Plan and schedule in October 1993. In light of the increased costs, the Cities of Alameda, Albany, Berkeley, Oakland, and Piedmont have requested extensions to their compliance schedule by five to ten years. It is the intention of this Board in rescinding the existing Cease and Desist Order (86-17) to establish revised compliance schedules for the communities by adopting this new Cease and Desist Order.
17. The NPDES permits (Nos. CA0038474, CA0038491, CA0038466, CA0038512, CA0038504, and CA0038482) for which violations are currently occurring will expire and be reissued every five years. This Cease and Desist Order will apply to the NPDES permits as they are reissued.
18. To date, the communities have eliminated 66 of the 108 public health threat overflow locations as identified in the February 1993 Compliance Plan. The communities have spent about \$ 90-million on I/I Correction Projects to date.
19. An Environmental Impact Report (EIR) dated April 1986, addresses the impacts of the projects which are being implemented in response to the Cease and Desist Order. The financial burden of increased sewer use fees, and the

inequity of requiring private lateral replacement or rehabilitation at the property owners expense in some neighborhoods, but not in others, have been identified as potentially significant economic impacts for homeowners and renters. A number of measures to mitigate these impacts are discussed in the EIR. East Bay Municipal Utility District Board of Directors certified a Final Environmental Impact Report in April 1986.

20. This action is an order to enforce waste discharge requirements and Basin Plan prohibitions previously adopted by the Board and is therefore categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15321 of the Resource Agency Guidelines.
21. The communities, the District, and interested persons have been notified of the Board's intent to take this enforcement action, and have been provided an opportunity to submit written comments and appear at the public hearing. At a public meeting on October 20, 1993, the Board heard and considered all comments pertaining to the discharges.

IT IS HEREBY ORDERED THAT, in accordance with Section 13301 of the California Water Code, the Cities of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont, and the Stege Sanitary District cease and desist from discharging wastes in violation of Order Nos. 89-150, 89-151, 89-152, 89-153, 89-154, and 89-155 (NPDES Permit Nos. CA0038474, CA0038491, CA0038466, CA0038512, CA0038504, and CA0038482, respectively) and as may be reissued, or in a manner that injures or creates a hazard to public health, or a nuisance, in accordance with the time schedule contained in this Order.

1. The Cities of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont, and the Stege Sanitary District shall not discharge wastewater at any time from a relief sewer into any location other than the sewage collection system.
2. The Cities of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont, and the Stege Sanitary District shall increase sewer user fees, or implement equivalent financial measures, such that measures to control sewer system overflows can be implemented as proposed, without further delay.
3. The requirements prescribed by this Order supersede the requirements prescribed by Order No. 86-17. Order No. 86-17 is hereby rescinded.
4. When the NPDES Permit Nos. CA0038474, CA0038491, CA0038466, CA0038512, CA0038504, and CA0038482 are reissued, the

requirements prescribed by this Order will apply to these NPDES Permits as reissued.

5. The Cities of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont, and the Stege Sanitary District shall achieve compliance with the discharge prohibitions of Order Nos. 89-150, 89-151, 89-152, 89-153, 89-154, and 89-155 (NPDES Permit Nos. CA0038474, CA0038491, CA0038466, CA0038512, CA0038504, and CA0038482, respectively), and the Basin Plan prohibitions according to the following time schedule.

<u>Group Tasks</u>	<u>Compliance Date</u>
A. Submit a technical report acceptable to the Executive Officer containing compliance status on implementation of tasks identified in the revised Compliance Plan dated October 1993 ¹ . This Plan is hereby incorporated into this Order ² . The report should contain, at a minimum, charts and/or tables showing: i) linear feet of relief line installed to date compared to the total linear feet of project for each city in the Plan; and ii) amount of subbasins and trunk sewers rehabilitated to date compared to total subbasins and trunk sewers required to be rehabilitated in the Plan.	September 1, 1994 and every year thereafter.
B. Submit a status report on elimination of high public health threat overflows and system bypasses as identified in the communities' Compliance Plans. The report shall identify those overflows which have been eliminated to date compared to the total number of overflows.	September 1, 1994 and every year thereafter
C. Identify the high public health threat overflows and system bypasses which shall be eliminated during the next reporting period. In addition, identify any new overflows attributable to infiltration/inflow or system bypasses not identified in the communities' Compliance Plans.	September 1, 1994 and every year thereafter

<u>Tasks for Individual Community</u>	<u>Compliance Date</u>
D. City of Alameda:	
i) Complete all projects within City limits directly related to public threat overflows ³	June 30, 2004
ii) Complete all projects per Compliance Plan ⁴	June 30, 2005
E. City of Albany:	
i) Complete all projects within City limits directly related to public threat overflows ³	June 30, 1998
ii) Complete all projects per Compliance Plan ⁴	June 30, 2017
F. City of Berkeley:	
i) Complete all projects within City limits directly related to public threat overflows ³	June 30, 2009
ii) Complete all projects per Compliance Plan ⁴	June 30, 2016
G. City of Emeryville:	
i) Complete all projects within City limits directly related to public threat overflows ³	June 30, 1995
ii) Complete all projects per Compliance Plan ⁴	June 30, 2003
H. City of Oakland:	
i) Complete all projects within City limits directly related to public threat overflows ³	June 30, 2001
ii) Complete all projects per Compliance Plan ⁴	June 30, 2014
I. City of Piedmont:	
i) Complete all projects within City limits directly related to public threat overflows ³	June 30, 2014

ii) Complete all projects per
Compliance Plan⁴

June 30, 2014

J. Stege Sanitary District:

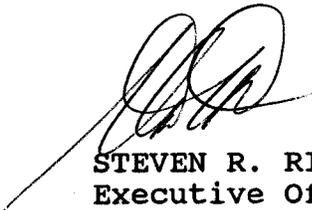
ii) Complete all projects per
Compliance Plan⁴

June 30, 2000

Notes:

1. City of Emeryville shall submit a status report on implementation of tasks identified in the Communities Compliance Plans dated **October 1985**.
 2. Appendix G (Wet Weather Management Plan for City of Emeryville) of the Communities Compliance Plans dated **October 1985** is also hereby incorporated into this Order.
 3. 108 public health threat overflows as identified in the October 1993 Communities Compliance Plans.
 4. Compliance date as identified in the community's Compliance Plan dated October 1993. See Compliance Plan Schedule.
5. If the Executive Officer finds that any community has failed to comply with any provision or time schedule contained in this order, the Executive Officer is instructed to request the Attorney General to take an appropriate enforcement action against the community, including injunction and civil monetary penalties, if appropriate.

I, Steven R. Ritchie, Executive Officer, do hereby certify 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 October 20, 1993.

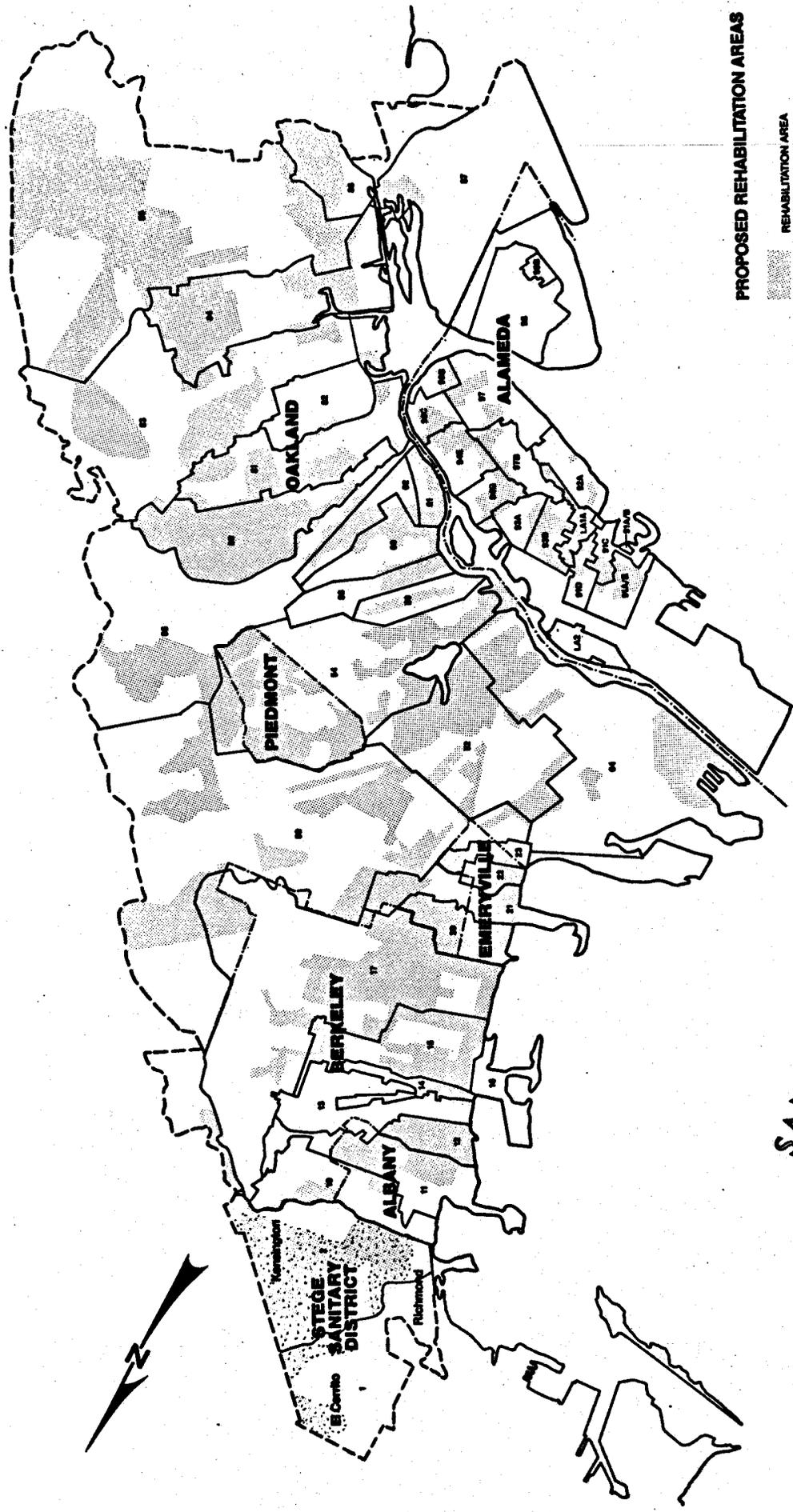


STEVEN R. RITCHIE
Executive Officer

Attachments:

1. Project Maps

ATTACHMENT 1

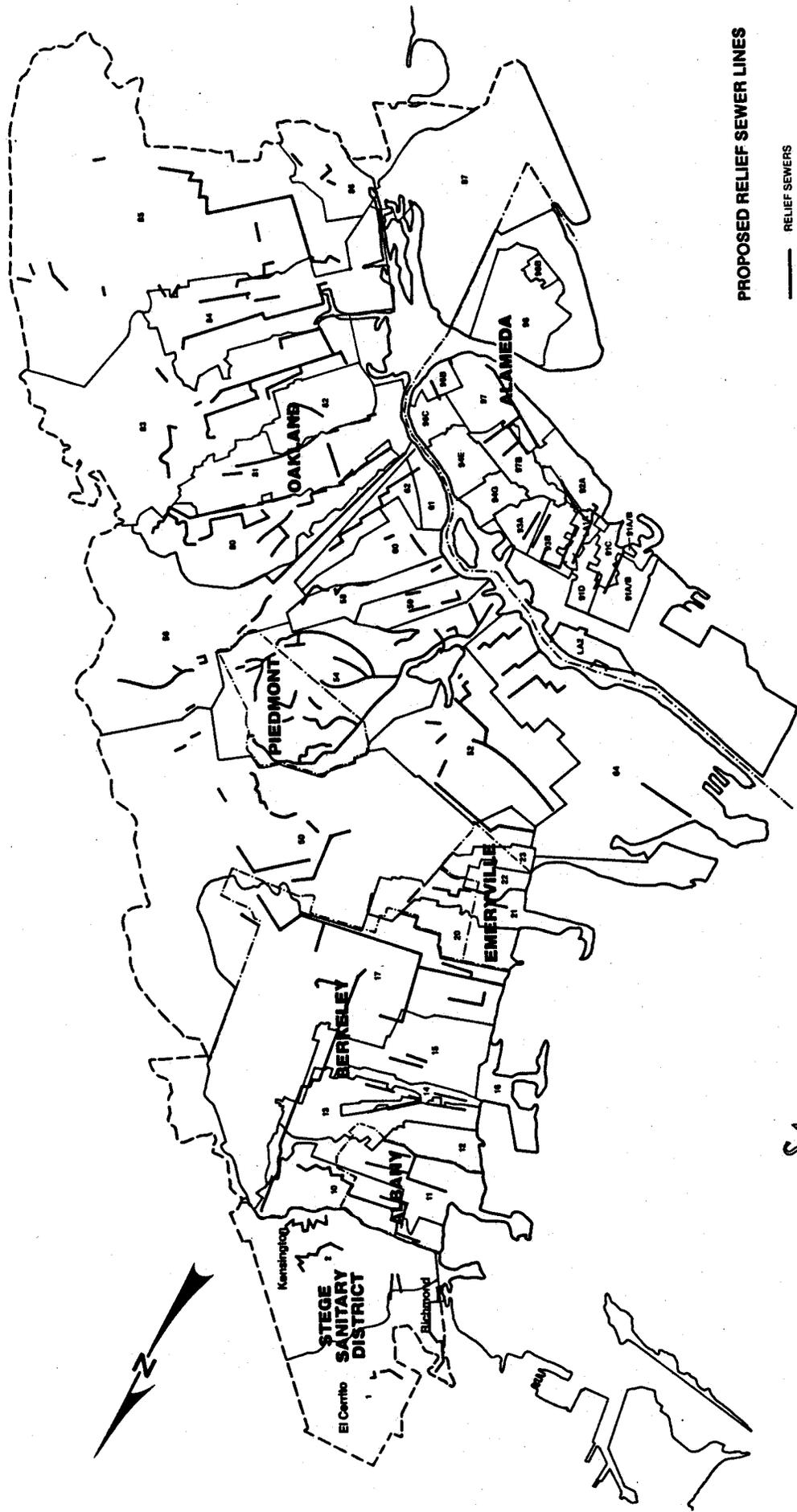


PROPOSED REHABILITATION AREAS

REHABILITATION AREA

— 01 — DRAINAGE AREA

SAN FRANCISCO BAY



PROPOSED RELIEF SEWER LINES

- RELIEF SEWERS
- 01 DRAINAGE AREA

SAN FRANCISCO BAY