

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition of )  
the City of Concord for Review of )  
Order No. 71-73 of the California )  
Regional Water Quality Control )  
Board, San Francisco Bay Region )  
\_\_\_\_\_ )

Order No. 72-11

On November 24, 1971, the City of Concord petitioned the State Water Resources Control Board to review Order No. 71-73 of the California Regional Water Quality Control Board, San Francisco Bay Region adopted on October 28, 1971.

A. The State Board having considered the petition and the records of the regional board which concern the petitioner's contentions finds:

1. The City of Concord, located in Central Contra Costa County (Figure 1) treats 4.8 mgd of sewage from a population of 68,000. Treatment is by trickling filter, oxidation ponds, and disinfection before discharge to Walnut Creek, a tributary to Pacheco Creek, and thence to Suisun Bay approximately five miles from the point of discharge.

2. On October 28, 1971, the regional board adopted Order No. 71-73 establishing stringent numerical requirements for discharge of waste to Walnut Creek and prohibiting discharge to the stream after June 30, 1973.

3. The discharge prohibition is compatible with the Water Quality Control Plan, San Francisco Bay which contains a prohibition on the discharge of sewage-bearing waste to nontidal waters.

4. The basin plan provides for exception from the prohibition where the discharge is approved as part of a reclamation project or where an alternate discharge location is not possible. No evidence has been introduced that indicates exemption of the City of Concord from the prohibition would be appropriate.

5. An important issue of the Concord petition relates to the reasonableness of adopted numerical requirements on the "interim discharge" to nontidal waters. The requirements are so stringent that extensive new construction of "tertiary" facilities would be necessary for compliance. Construction of facilities necessary for compliance with numerical requirements could not be completed more than a few months in advance of the prohibition date at which time the new facilities would become obsolete.

B. The specific contentions of the petition and the Board's findings concerning them are as follows:

- (1) Contention: That the newly imposed wastewater requirements are arbitrary and capricious.

Findings: The regional board has adopted a Basin Water Quality Control Plan which contains a prohibition on discharge of sewage-bearing wastes to nontidal waters. The prohibition of discharge to Walnut Creek is a proper implementation of the Water Quality Control Plan, San Francisco Bay. Since the prohibition is to take effect as soon as transport facilities can be constructed, only waste discharge requirements necessary for interim protection of water uses should be applied during the

period prior to discharge termination. The requirements set forth in Order No. 71-73 would necessitate extensive treatment construction for compliance. This construction would require considerable time for completion and facilities would not be completed in time for use prior to the prohibition deadline. Because they would require extensive short-lived treatment modification, the requirements set forth in Order No. 71-73 are unreasonable for application during the interim period.

- (2) Contention: That it is not economically feasible to meet such requirements.

Findings: No evidence was presented on this subject.

- (3) Contention: That to prohibit treated wastewater discharges by the city after June 30, 1973, into Walnut Creek is unjustified.

Findings: The matter of justification for the waste discharge prohibition was resolved by the regional board after public hearing and in accordance with law at the time of adoption of the Basin Water Quality Control Plan. As adopted, the prohibition provides for exception only in those cases where the discharge is approved as part of a reclamation project or where an alternate discharge location is not possible. The discharger has not requested approval of the discharge as part of a reclamation project nor has he shown that an alternate discharge location is not possible.

- (4) Contention: That no harm is being caused to the receiving waters of Walnut Creek because of the present discharges being made by the City of Concord.

Findings: The present 4.8 mgd discharge is polluting Walnut Creek by causing extreme turbidity and heavy organic loading in the stream. Full protection of the beneficial uses of Walnut Creek would require "tertiary" level removal of turbidity, nutrients, toxic substances, oxygen demanding substances, and coliform organisms. This degree of treatment is particularly important in view of the low natural flows which are characteristic of this stream as illustrated by 12 years of data showing a mean annual flow of 25 cfs (16 mgd), a mean August flow of 2.5 cfs (1.6 mgd) and occasional instances of zero flow during summer months.

- (5) Contention: That even if the said requirements could be met, the California Regional Water Quality Control Board would not approve any grant to modify the Concord Sewer Treatment Plant.

Findings: This issue is irrelevant.

- (6) Contention: That the City of Concord is treating its wastes at a higher level than would be the case if the city were diverting its entire sewer flow to the Central Contra Costa Sanitary District. That the Board is attempting to force the City of Concord to tie into a treatment plant providing a lower level of treatment than that presently provided by the City of Concord.

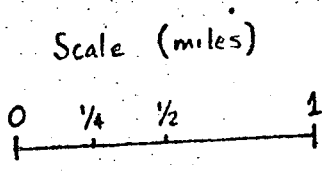
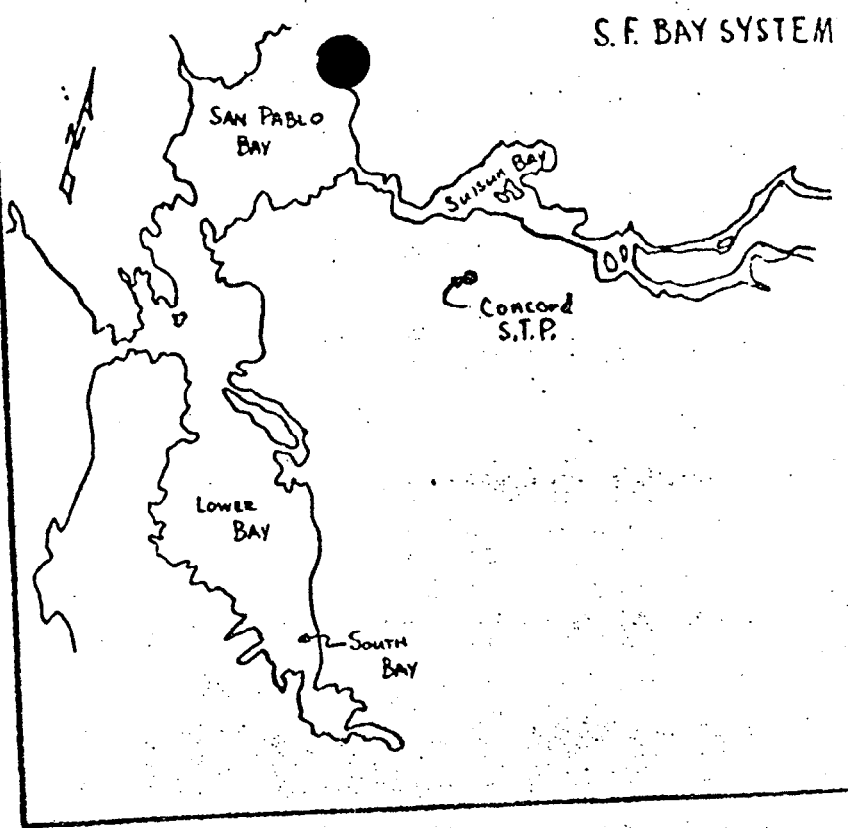
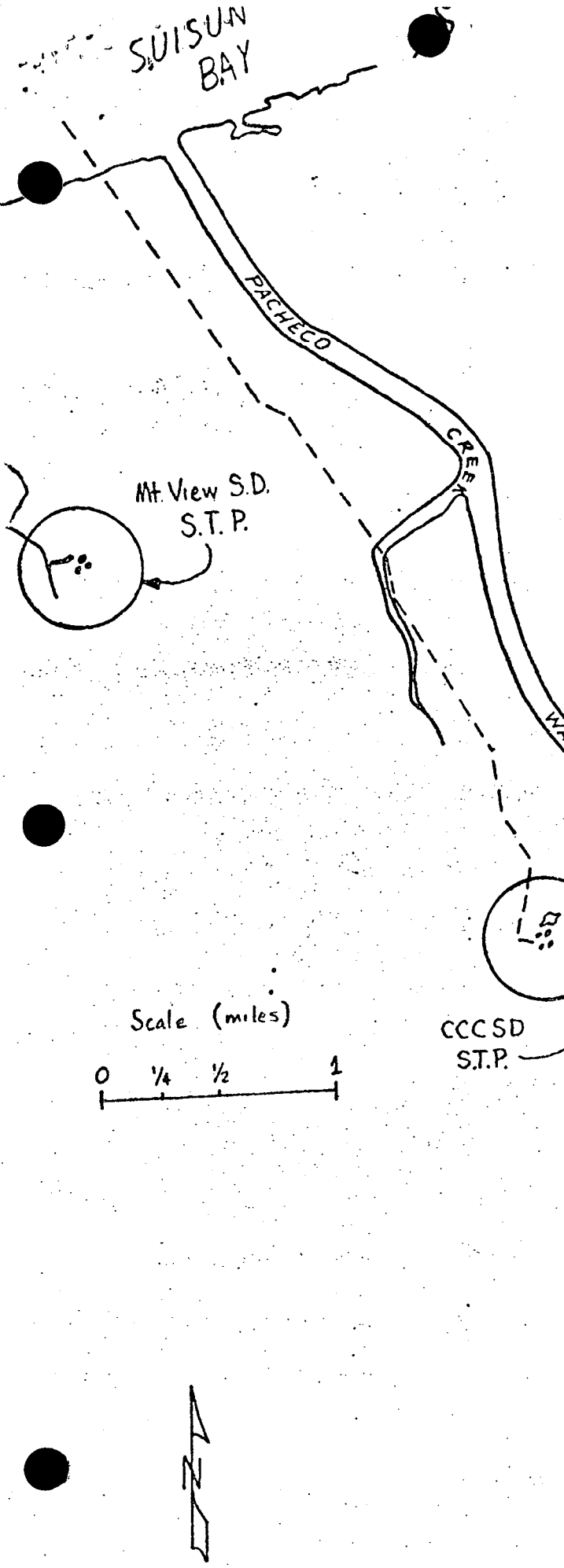



FIGURE 1

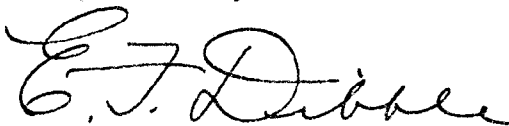
IT IS HEREBY ORDERED that the California Regional Water Quality Control Board, San Francisco Bay Region, shall revise the waste discharge requirements contained in Order No. 71-73 in conformity with the conclusions of this order.

Adopted as the order of the State Water Resources Control Board at a meeting duly called and held at Sacramento, California.

Dated: May 18, 1972

  
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W. W. Adams, Chairman

  
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E. F. Dibble, Vice Chairman

  
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Ronald B. Robie, Member

  
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Roy E. Dodson, Member

ABSTAINED

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Mrs. Carl H. (Jean) Auer, Member

Findings: If the city's discharge is connected to the sanitary district's plant before improvements to that plant are completed, a temporary decrease in the overall treatment level would occur. This contention is also discussed under Contention 9.

- (7) Contention: That for the regional board to require the City of Concord to abandon its treatment plant would be a waste of public funds. That the taxpayers and householders of the City of Concord would be required to assume capital improvement costs which would be required at the Central Contra Costa Sanitary District treatment plant if the City of Concord is compelled to divert its entire wastewater flow to such plant. That the City of Concord is committed to an existing repayment program to corporate bond holders of sewer revenue bonds covering original sewer construction costs and the threatened requirements may seriously infringe on the City of Concord's ability to make such repayment from sewer revenues.

Findings: No evidence was introduced at the regional board hearing to support this contention.

- (8) Contention: That a study is currently underway covering a plan for the disposal of wastewater on a subregional basis and until such study is finally completed and analyzed the imposition of any proposed wastewater requirements are premature and constitute an unsound engineering practice.

Findings: The consolidation is compatible with the Water Quality Control Plan adopted by the regional board. The initial draft of THE CONTRA COSTA COUNTY WATER QUALITY STUDY also recommends that all sewage in the Central and Eastern Contra Costa County be intercepted and treated at a regional plant at the site of the present Central Contra Costa Sanitary District facility near Martinez.

- (9) Contention: That the proposed requirements will not improve the quality of wastewater being discharged into the waters of the state.

Findings: The regional board requirements will improve the quality of wastewater discharged into waters of the state through the elimination of a sewage discharge to Walnut Creek. It is expected that elimination of the Concord discharge would be accomplished by diversion to the nearby Central Contra Costa Sanitary District (CCCSD) facility. Requirements were recently established for CCCSD which will necessitate a high level of treatment prior to discharge to Suisun Bay. Diversion of the Concord waste to the CCCSD plant would therefore result in substantial improvement in effluent quality and significant benefit to waters of the state.

C. The State Board, having considered all contentions of the petitioner and the record before the regional board concludes as follows:

1. The discharge prohibition is appropriate.
2. The numerical effluent quality requirements are unreasonable for the protection of beneficial uses during the interim period prior to the elimination of the discharge. Reasonable interim discharge requirements, including any necessary limitation on the volume of discharge, should be established by the regional board for the period prior to the effective date of the prohibition.