STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition of JOHN F. BOSTA, ET AL.

For Review of Stay of Cease and)
Desist Orders for Eagle Lake)
Property Owners in the Stones-Bengard)
Tract Issued by the California)
Regional Water Quality Control Board,)
Lahontan Region. Our File)
No. A-744(a).

ORDER NO. WQ 91-11

BY THE BOARD:

I. BACKGROUND

On May 10, 1991, the Regional Water Quality Control
Board, Lahontan Region (Regional Board) adopted about 190 cease
and desist orders for property owners in the Stones-Bengard Tract
at Eagle Lake. On the same date about 600 cease and desist
orders were also adopted for residents of the Spalding Tract at
Eagle Lake. All cease and desist orders required the property
owners to dispose of their sewage by other than use of a septic
system. Those who own property in the Stones-Bengard Tract have
available to them a cooperative sewer system so the cease and
desist orders for those persons contained a relatively short time
schedule for compliance. Those in Spalding Tract were given
substantially more time to comply.

Petitions were received from about one-sixth of the property owners in the Stones-Bengard Tract. They asked that the cease and desist orders be vacated by the State Water Resources

Control Board (State Board) based on their contention that there is no scientific or legal basis to impose a prohibition area for septic systems around Eagle Lake. In the interim, they asked that the State Board stay the effective dates in the cease and desist orders until the State Board has an opportunity the review their petitions on the merits.

II. DISCUSSION

Our regulations require a petitioner to allege facts and produce proof of three elements:

- Substantial harm will result to the petitioner or the public interest if a stay is not granted;
- 2. There will be no substantial harm to other interested parties or to the public interest if a stay is granted; and
- 3. Substantial issues of law and fact have been raised in the petition. (Title 23, Cal. Code of Regs. Section 2053.)

On September 4, 1991, the State Board received evidence on the request for the stay. Testifying were petitioners, other landowners in the Stones-Bengard Tract, and a representative of the Lahontan Regional Board. The record indicates that there is substantial compliance with the Regional Board's cease and desist orders. Those who feel that they will have difficulty in complying with the cease and desist order should work with the Regional Board staff to achieve compliance.

III. CONCLUSION

Based upon the record before the State Board, the State Board finds that there will be no substantial harm to the petitioner or the public if the stay is not granted.

IV. ORDER

It is hereby ordered that the requests for stay are denied.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 26, 1991.

AYE:

W. Don Maughan Edwin H. Finster Eliseo M. Samaniego John Caffrey

NO:

None

ABSENT:

None

ABSTAIN: None

Maureen Marché

Administrative Assistant to the Board