

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Review of Actions of the)
California Regional Water Quality Control)
Boards for the North Coast, San Francisco Bay,)
Central Coast, Los Angeles, Central Valley,)
Santa Ana, and San Diego Regions Regarding)
Compliance by Pacific Gas and Electric)
Company, the Los Angeles Department of Water)
and Power, Southern California Edison Company,)
and San Diego Gas and Electric Company with)
Specified NPDES Permits)

ORDER NO. WQ 78-5

3-16-79
BY THE BOARD:

On various dates between December 17, 1974, and June 23, 1977, as specifically identified herein below, the California Regional Water Quality Control Board, North Coast Region (North Coast Regional Board), the California Regional Water Quality Control Board, San Francisco Bay Region (San Francisco Bay Regional Board), the California Regional Water Quality Control Board, Central Coast Region (Central Coast Regional Board), the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Regional Board), the California Regional Water Quality Control Board, Central Valley Region (Central Valley Regional Board), the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Regional Board), and the California Regional Water Quality Control Board, San Diego Region (San Diego Regional Board)(hereinafter sometimes referred to collectively as the "Regional Boards") adopted waste discharge requirements for the twenty-four steam electric power plants specifically identified herein below which are owned and operated by Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E), Southern California Edison Company (SCE), and the City of Los Angeles, Department of Water and Power .

(LADWP) (hereinafter sometimes referred to collectively as the "dischargers").

On various dates between June 10, 1977, and September 20, 1977, as specifically identified herein below, the Regional Board having jurisdiction adopted an Enforcement Order for the Issuance of a Time Schedule under Section 13300 of the California Water Code (hereinafter Regional Board enforcement order) with respect to each of the twenty-four steam electric powerplants identified herein below, owned and operated by the dischargers. On August 18, 1977, the State Water Resources Control Board (State Board) adopted Resolution No. 77-72 to review the actions of the Regional Boards. On October 3, 1977, the State Board held a hearing regarding the appropriateness of the Regional Board enforcement orders.

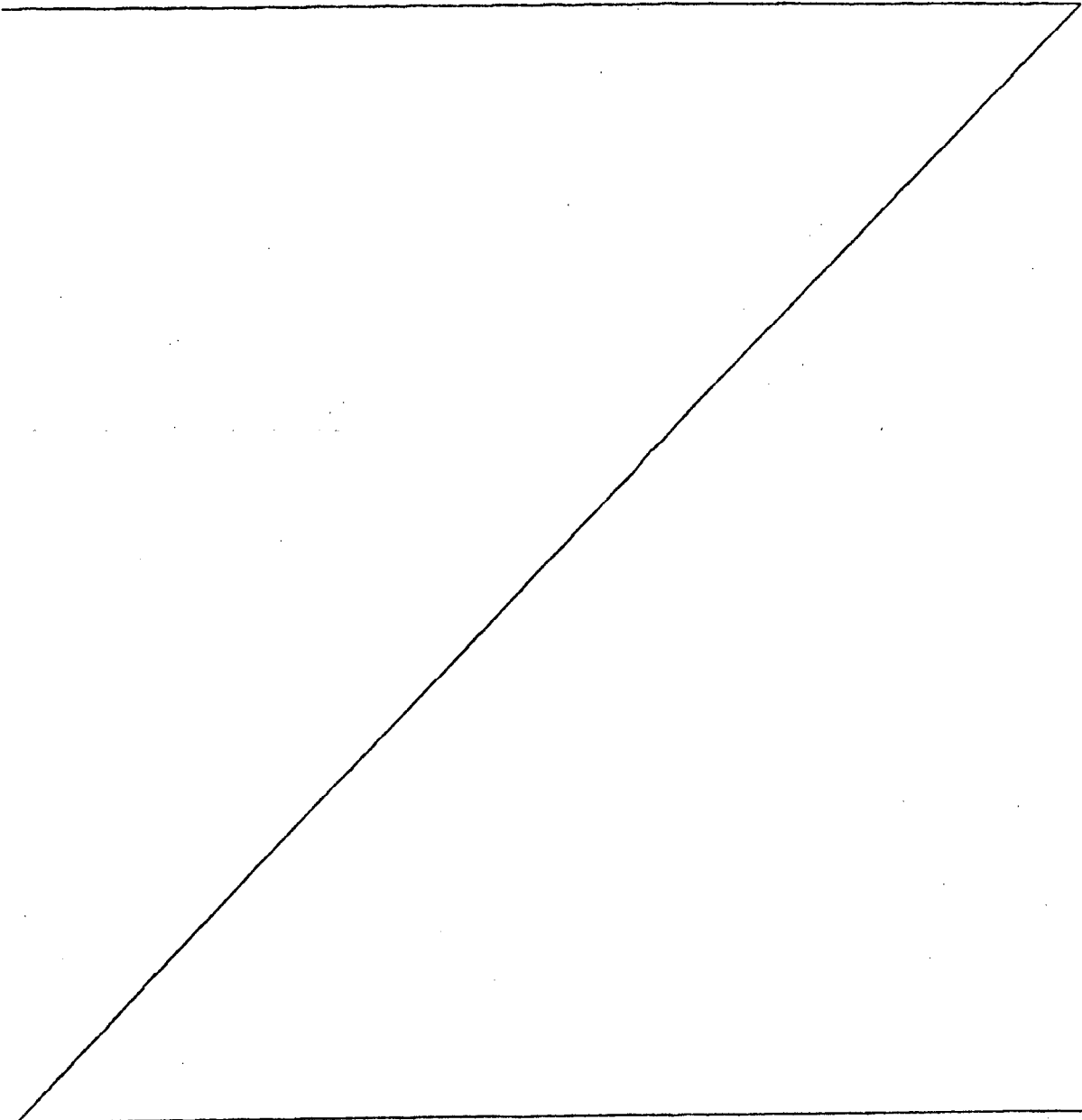
I. BACKGROUND

The Discharges Involved

The dischargers operate steam electric powerplants at various locations throughout California. Each plant to be considered in this review and its operator, the Regional Board order prescribing waste discharge requirements for each plant and its date of adoption, the NPDES permit number applicable to each plant, any Regional Board order modifying the waste discharge requirements and the date of its adoption, and the Regional Board having jurisdiction over the area in which each plant is located are specified in the following table:

Plant	Operator	Regional Board	NPDES No.	Waste Discharge Requirements		Modified WDR	
				Date	RB Order No.	Date	RB Order No.
Potrero P.P.	PG&E	San Francisco Bay	CA0005657	5/18/76	76-61	-	-
Hunters Point P.P.	"	"	CA0005649	"	76-60	-	-
Oleum P.P.	"	"	CA0005631	"	76-62	-	-
Avon P.P.	"	"	CA0004871	12/17/74	74-202	7/20/76	76-73
Martinez P.P.	"	"	CA0004049	12/17/74	74-203	-	-
Pittsburg P.P.	"	"	CA0004880	5/18/76	76-63	-	-
Contra Costa P.P.	"	Central Valley	CA0004863	5/28/76	76-133	-	-
Humboldt Bay P.P.	"	North Coast	CA0005622	6/23/77	77-105	-	-
Moss Landing P.P.	"	Central Coast	CA0006254	4/9/76	76-09	-	-
Morro Bay P.P.	"	"	CA0003742	"	76-10	-	-
Station "B" P.P.	SDG&E	San Diego	CA0001384	5/10/76	76-8	-	-
South Bay P.P.	"	"	CA0001368	6/14/76	76-10	-	-
Encina P.P.	"	"	CA0001350	"	76-22	-	-
Silver Gate P.P.	"	"	CA0001376	5/10/76	76-9	-	-
Huntington Beach G.S.	SCE	Santa Ana	CA0001163	5/14/76	76-65	6/10/77	77-135
Alamitos G.S.	"	Los Angeles	CA0001139	2/28/77	77-47	-	-
Redondo G.S.	"	"	CA0001201	"	77-53	-	-
Mandalay G.S.	"	"	CA0001180	"	77-51	-	-
Long Beach G.S.	"	"	CA0001171	"	77-49	-	-
Ormond Beach G.S.	"	"	CA0001198	"	77-52	-	-
El Segundo G.S.	"	"	CA0001147	"	77-48	-	-
Harbor G.S.	LADWP	Los Angeles	CA0000361	4/25/77	77-71	-	-
Scattergood G.S.	"	"	CA0000370	"	77-72	-	-
Haynes G.S.	"	"	CA0000353	"	77-70	-	-

The following table identifies, for each plant, the location of the plant, the receiving water of its waste discharge, and the Regional Board enforcement order, its date of adoption, and any subsequent modifications thereof:



Plant	Location	Receiving Water	RB Enforcement Order		Modification	
			Date	RB Order No.	Date	RB Order No.
Potrero P.P.	100-23rd St., San Francisco	San Francisco Bay	9/20/77	77-121	-	-
Hunters Point P.P.	1000 Evans Ave., San Francisco	"	"	77-120	-	-
Oleum P.P.	1 mile north of Rodeo	San Pablo Bay	"	77-123	-	-
Avon P.P.	Avon	Pacheco Cr.-Suisun Bay	"	77-124	-	-
Martinez P.P.	1622 Shell Ave., Martinez	Suisun Bay	"	77-125	-	-
Pittsburg P.P.	Pittsburg	"	"	77-122	-	-
Contra Costa P.P.	2 miles east of Antioch	San Joaquin River	6/22/77	77-102	-	-
Humboldt Bay P.P.	2 miles south of Eureka	Humboldt Bay	6/23/77	77-104	-	-
Moss Landing P.P.	13½ miles north of Monterey	Pacific Ocean	7/8/77	77-12	-	-
Morro Bay P.P.	12½ miles northwest of San Luis Obispo	"	"	77-11	-	-
Station "B" P.P.	707 W. Broadway, San Diego	San Diego Bay	6/27/77	77-31	9/12/77	Addendum No. 1
South Bay P.P.	990 Bay Blvd., Chula Vista	"	"	77-30	1/23/78	" No. 3
Encina P.P.	4600 Carlsbad Blvd., Carlsbad	Pacific Ocean	"	77-28	9/12/77	" No. 1
Silver Gate P.P.	1348 Sampson St., San Diego	San Diego Bay	"	77-29	1/23/78	" No. 3
Huntington Beach G.S.	Coast Hwy. & Newland St., Huntington Beach	Pacific Ocean	6/10/77	77-136	-	-
Alamitos G.S.	690 Studebaker Rd., Long Beach	San Gabriel River	6/27/77	77-127	-	-
Redondo G.S.	1100 Harbor Dr., Redondo Beach	Pacific Ocean & King Harbor	"	77-132	-	-
Mandalay G.S.	393 N. Harbor Blvd., Oxnard	Pacific Ocean	"	77-130	-	-
Long Beach G.S.	2665 W Seaside Dr., Long Beach	Long Beach Harbor	"	77-129	-	-
Ormond Beach G.S.	6635 S. Edison Dr., Oxnard	Pacific Ocean	"	77-131	-	-
El Segundo G.S.	301 Vista Del Mar, El Segundo	"	"	77-128	-	-
Harbor G.S.	161 N. Island Ave., Wilmington	Los Angeles Harbor	"	77-125	-	-
Scattergood G.S.	12700 Vista Del Mar, Playa Del Rey	Pacific Ocean	"	77-126	-	-
Haynes G.S.	6801 Westminster Ave., Long Beach	San Gabriel River	"	77-124	-	-

Development of EPA Guidance

On October 18, 1972, Congress passed Public Law 92-500^{1/} (the Federal Water Pollution Control Act Amendments of 1972; hereinafter, FWPCA). Among other requirements, this act requires in Section 301(b)(1)(A) that "...there shall be achieved not later than July 1, 1977, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available [BPCTCA] as defined by the Administrator pursuant to Section 304(b) of this Act...".

Section 304(b) requires that the Administrator of the Environmental Protection Agency (EPA) publish guidelines defining best practicable control technology currently available within one year of enactment of the law. Thus, the guidelines applicable to this industry were to have been promulgated by October 18, 1973.

On March 4, 1974, EPA published proposed guidelines for the Steam-Electric Power Generating point source category (hereinafter "Guidelines"). The Guidelines^{2/} were promulgated in final form on October 8, 1974, almost one year after their promulgation was called for by the FWPCA. In response to numerous comments, the final Guidelines were changed substantially from the proposed version. In March 1975, the final development document describing the basis for the Guidelines was issued.

^{1/} 33 U.S.C. 1251 et seq.

^{2/} 40 CFR 423

The Guidelines address two general areas of pollutants: waste heat and other pollutants incidental to the operation of the powerplant. For powerplants in California, the other waste sources affected by the Guidelines generally fall into the following four categories: boiler blowdown, metal cleaning waste, low volume waste, and chlorine. Boiler blowdown consists of a flow of water which is bled from the boiler to remove materials that might otherwise build up and have undesirable effects such as scaling. Periodically, the inside (water side) of the boiler must be cleaned with an acid cleaning solution to remove scale and other deposits. The spent cleaning solutions and subsequent rinses are defined as metal cleaning wastes. All other wastes, except boiler blowdown and metal cleaning wastes, are defined as low volume wastes and include, but are not limited to, wastewaters from ion exchange water treatment systems, water treatment evaporator blowdown, laboratory and sampling streams, floor drainage, cooling tower basin cleaning wastes, and boiler fireside cleaning and air preheater cleaning wastes if chemicals are not used in the cleaning process. If chemicals are used in the fireside or air preheater cleaning, these are then classified as metal cleaning wastes. Chlorine is used in the once through cooling water by most plants to control the growth of marine or aquatic organisms. Since chlorine is toxic, and in fact is used as a toxicant, its discharge is limited.

Early in 1977 an internal memorandum dated July 17, 1975, from the EPA Office of Enforcement was brought to the attention of the Los Angeles Regional Board. This memorandum provides EPA Headquarters' interpretation of the classification of air preheater

and boiler fireside wash waters as detailed above. Previously, the interpretation implemented by the State and Regional Boards, with at least the tacit concurrence of EPA's Region IX Office which reviews all NPDES permits issued by California authorities, was that all air preheater and boiler fireside wastes were defined as metal cleaning wastes. This change in definition results in a significant reduction in the volume of wastes defined as metal cleaning wastes.

A number of utilities petitioned the Fourth Circuit Court of Appeals for review of portions of the Guidelines (Appalachian Power Company v. Train; hereinafter Appalachian).^{3/} The decision was issued by the Fourth Circuit on July 16, 1976. The utilities argued that EPA had set nationally uniform effluent limitations rather than flexible "guidelines". In Appalachian, the Court reaffirmed its analysis (earlier set forth in DuPont v. Train, 541 F. 2d 1018; affirmed in part by the U. S. Supreme Court, 430 U.S. 112, 97 S. Ct. 965) that effluent limitations were "presumptively applicable" as long as some variance provision to allow flexibility is available. The Fourth Circuit ruled that the variance clause in the Guidelines was unduly restrictive and remanded it to EPA for further consideration.

In Appalachian, the utilities which were parties to the suit (including PG&E, SDG&E, and SCE) did not contest the Guideline limitations on boiler blowdown, metal cleaning wastes, low volume wastes, or chlorine.

^{3/} 545 F. 2d 1351.

Criteria for Issuance of Time Schedule Orders

On June 3, 1976, EPA adopted a policy of issuing Enforcement Compliance Schedule Letters (ECSL) to those dischargers that were unable to comply with the statutory date for installation of BPCTCA (July 1, 1977) through no fault of their own. The ECSL is essentially an agreement between EPA and the discharger that if the discharger complies with an agreed upon time schedule, EPA will not take additional enforcement actions. The possession of an ECSL does not protect a discharger from suits by others under Section 504 of the FWPCA for failure to comply with his NPDES permit. EPA referred to the ECSL procedure as providing for an exercise of prosecutorial discretion.

The Federal Water Pollution Control Act has since been amended by the Clean Water Act of 1977 (P.L. 95-217) which was signed by the President on December 28, 1977. Among the provisions of the Clean Water Act is an amendment to Section 309, the enforcement section of the FWPCA. The specific provisions as now found in Section 309(a)(5)(B) are as follows:

"(B) The Administrator may, if he determines (i) that any person who is a violator of, or any person who is otherwise not in compliance with the time requirements under this Act or in any permit issued under this Act, has acted in good faith, and has made a commitment (in the form of contracts or other securities) of necessary resources to achieve compliance by the earliest possible date after July 1, 1977, but not later than April 1, 1979; (ii) that any extension under this provision will not result in the imposition of any additional controls on any other point or nonpoint source; (iii) that an application for a permit under section 402 of this Act was filed for such person prior to December 31, 1974; and (iv) that the facilities necessary for compliance with such requirements are under construction, grant an extension of the date referred to in section 301(b)(1)(A) to a date which will achieve compliance at the earliest time possible but not later than April 1, 1979".

The language of Section 309(a)(5)(B) leaves a number of questions open regarding the Congressional intent in adopting it; among the most critical are the following:

1. Does the Section apply to extensions of the July 1, 1977, compliance date through use of the ECSL (prosecutorial discretion) mechanism only or does it evince a Congressional intent that EPA may not in any way participate in allowing an extension of compliance beyond April 1, 1979? That is, can EPA adopt an order under Section 309(a)(3) (roughly the federal equivalent of our Cease and Desist Order) which orders compliance by a date beyond April 1, 1979, even though it is restricted in its use of Section 309(a)(5)(B) orders?
2. Does Section 309(a)(5)(B) preclude a further exercise of prosecutorial discretion by EPA after April 1, 1979. That is, in view of the section, does EPA still have the option of simply deciding not to prosecute under appropriate circumstances?
3. How does Section 309(a)(5)(B) affect ECSLS adopted prior to the effective date of the Clean Water Act?
4. How, if at all, does Section 309(a)(5)(B) apply to states such as California which have been delegated the responsibility for administration of the NPDES permit program?

The legislative history of the Clean Water Act of 1977 indicates that the answers to the above questions are as follows:

1. It appears that Section 309(a)(3) compliance orders may still be issued by EPA with compliance dates beyond April 1, 1979. Comments in the Conference Committee Report (Congressional Record December 6, 1977 12690 at 12715) indicate that the Section 309(a)(5)(B) extension mechanism was intended to apply only to dischargers who had made good faith attempts to meet the July 1, 1977 compliance date and who for reasons beyond their control had been unable to comply. The mechanism was intended to allow such dischargers to avoid the stigma of having been found to be law breakers. As is stated in the Conference Committee Report:

"The conferees modified the Senate amendment to provide recognition of the fact that some sources may fail to comply with the deadlines of the Act for reasons beyond their control such that it is not appropriate to label them as violators. Under the conference modification, these kinds of sources may receive extensions without bearing the stigma of violation of law."

The Section 309(a)(5)(B) mechanism is clearly intended only to provide relief of short duration to dischargers who deserve (pursuant to the criteria provided) not to be branded as violators of the law. Since an enforcement order under Section 309(a)(3) does carry with it the stigma of violation of the law, it appears that the Section 309(a)(5)(B) mechanism including the ultimate compliance date of April 1, 1979, was not intended to apply to enforcement under Section 309(a)(3).

2. Inasmuch as violations may (and probably will) outstrip the capacity of EPA to prosecute them after April 1, 1979, just as they do now, and inasmuch as some violations of the law will be more serious than others, it appears that the passage of Section 309(a)(5)(B) would not affect EPA's ability to decide not to take enforcement action against specific violators on a case-by-case basis after April 1979. It does appear, however, that it would not comport with Congressional intent for EPA to use anything like the ECSL mechanism (which includes a finding of good faith and an agreement not to seek civil penalties if the time schedule in the ECSL is met) as a vehicle to formalize the exercise of its prosecutorial discretion after April 1, 1979.
3. There are several expressions of Congressional intent regarding the effect of Section 309(a)(5)(B) on existing ECSLs issued prior to the effective date of the Clean Water Act of 1977. The Conference Committee Report, previously cited, states (at 12715):

"It is the intent of the conferees that under the provision which allows the Administrator to establish a reasonable time in which to comply with an enforcement order, existing administrative and court orders which provide for attainment dates beyond April 1, 1979, continue in effect unless modified under these amendments. Therefore, the existing enforcement policy of the EPA is continued."

The House Conferee's comments on the Conference Report (Congressional Record December 15, 1977 12916 at 12926) include the following discussion:

"The steel industry has had problems with capital formation for several years. In many instances the industry has not been able to modernize and install pollution control equipment at the same time. For that reason many individual facilities negotiated long-term agreements with EPA that carry the compliance date for BPT past July 1, 1977, and in some instances past April 1, 1979. Nothing in this legislation invalidates or in any way affects any orders, decrees, settlements, or other agreements in existence prior to enactment of this legislation pertaining to compliance dates for BPT."

It appears from the above statements that it was not Congress' intent to require that ECSLs in effect prior to the effective date of the Clean Water Act which contained compliance dates beyond April 1, 1979, be amended to require compliance by April 1, 1979.

This position is consistent with the widely applied rule of statutory interpretation that legislation is intended to have a prospective effect only unless it specifically provides otherwise (Fisher v. Home Indem. Co., 198 F.2d 218).

4. Section 309(a)(5)(B) applies by its terms to the EPA Administrator only. It is a part of Section 309 which is titled "Federal Enforcement". Where administration of the NPDES permit program has been delegated to a state pursuant to Section 402(b) of the FWPCA, EPA has required that the State generally have the same range of types of enforcement authority and the same civil and criminal fine authority under state law as EPA has under federal law. That is, states do not directly apply the federal law. (See 40 CFR, Section 124.73). However, the EPA Administrator has parallel enforcement authority

with a state delegatee under Section 309 and if he finds a violation of specified portions of the FWPCA against which the State, in his opinion, has not taken proper enforcement action he may take direct enforcement action himself.

In summary, then, it is our view that Enforcement Orders for the Issuance of a Time Schedule (being roughly the state equivalent of federal ECSLs) may contain compliance dates beyond April 1, 1979 if they were validly issued prior to enactment of the Clean Water Act of 1977. Further, other kinds of state enforcement orders, such as our Cease and Desist Order, which clearly contain findings of violations of law may include compliance dates beyond April 1, 1979. (It should be noted that to Congress there was more than a semantic difference between an order under Section 309(a)(5)(B) (roughly equivalent to our Enforcement Order for Issuance as a Time Schedule) and one under Section 309(a)(3) (roughly equivalent to our Cease and Desist Order). As was stated in the Senate conferee's comments on the Conference Committee Report (Congressional Record December 15, 1977 at 19651):

"The Administrator for instance, in appropriate cases may seek a civil penalty as well as issuing an administrative order. He is expected, however, not to seek penalties in instances from a discharger to which he issues an administrative order under the new section 309(a)(5)(B) as long as the discharger is in compliance with that order....."

Finally, we would anticipate that EPA would not take independent enforcement action under Section 309 so long as the State's actions are consistent with the above discussion.

Consistent with the ECSL procedure of EPA in effect at the time, in February 1977, the Regional Boards were advised by the State Board of procedures for issuance of time schedule orders in accordance with Section 13300 of Division 7 of the California Water Code. These enforcement orders for issuance of a time schedule are functionally equivalent to EPA's ECSL procedure. The following criteria were specified for deciding upon an appropriate enforcement action.

1. If the discharger has made a good faith effort but because of circumstances beyond its control, compliance will not be met by the statutory date, an achievable time schedule should be issued as an order separate from the NDPES permit. This order would be issued under the provisions of Section 13300 of Division 7, California Water Code.
2. If failure to achieve compliance by the required date may have resulted from the discharger's lack of diligence in attempting to comply, a Cease and Desist Order containing a time schedule should be issued.
3. If it is clear that the discharger has failed to take appropriate actions to ensure compliance and delays threaten to continue, the case should be referred to the Attorney General for enforcement

action. The Attorney General should seek a court-ordered compliance schedule as well as civil or criminal penalties if appropriate.

4. The choice of alternatives shall be made by the Regional Board after review of all the circumstances which have led to the discharger's failure to meet the statutory compliance date.

II. ISSUES AND FINDINGS

The sole issue before this Board in this review is the appropriateness of the enforcement actions taken by the Regional Boards against the dischargers for failure to comply with Guideline based effluent limitations by the statutory deadline of July 1, 1977. The dischargers admit that at several locations they do not have the facilities necessary to assure continuous compliance installed and operating. Therefore, our task is to determine the cause or causes of the noncompliance and then determine what enforcement action was or is appropriate.

We find that each of the following factors was instrumental in causing the failure of the dischargers to achieve compliance by the statutory deadline:

1. EPA failed to promulgate the Guidelines until almost one year after the date required by Section 304(b) of the FWPCA. It would have been unreasonable to have expected the dischargers to take any significant steps toward compliance prior to promulgation of the Guidelines. However, in addition to what the dischargers actually did, more preliminary steps could have been taken based on the proposed Guidelines.

2. EPA did not issue the final development document until about six months after the Guidelines were promulgated. Since the development document defines the treatment technology contemplated by EPA in establishing the Guideline effluent limitations, the dischargers were significantly hampered in their efforts toward determining the facilities required to achieve compliance by the delay in issuing the development document.
3. The waste streams consisting of air preheater wash and boiler fireside wash were, in effect, redefined as low volume wastes early in 1977. This redefinition contributed substantially to the decision by SCE and LADWP to transport its metal cleaning wastes to approved disposal sites as a long-term solution rather than treating this waste.
4. Extensive treatability studies submitted by SCE show that the treatment process identified in the development document for removal of iron and copper (lime precipitation) is much more difficult, or will not work, on wastes containing substantial concentrations of complexing and chelating agents. The dischargers use these agents in the metal cleaning solutions to prevent premature precipitation of iron and copper.
5. The Court's decision in Appalachian apparently provided significantly broader grounds for granting variances from Guideline based limitations on

the basis of a plant's being "fundamentally different" from those facilities considered by EPA in development of the Guidelines. The Los Angeles Regional Board relied on these apparently expanded criteria in recommending variances for several of SCE's and LADWP's plants. The Administrator of EPA has, as of this date, made no final decision on a number of these recommended variances. It would be unreasonable to require the dischargers to expend substantial resources toward compliance with limitations where the Regional Board has recommended approval of less stringent limitations; notwithstanding the fact that, technically, the Guideline based limitations are applicable until less stringent limitations are approved by the Administrator of EPA.

The dischargers have submitted extensive evidence purporting to show that they are, and have been, making every reasonable effort to comply with their discharge limitations at the earliest practicable date. It is clear that other actions could have been possible that would have led to compliance at an earlier date, and we are less than fully convinced that the dischargers were reasonably diligent in pursuing the best and shortest route toward compliance. It is difficult to determine after the fact what portion, if any, of the delay resulted from lack of due diligence on the part of the dischargers and what portion was the result of errors made in the process of good faith

efforts to comply as soon as practicable. It is not our intent to penalize the dischargers for errors in judgment that resulted in delays when such errors were made in good faith and without deliberate intent to delay compliance. Further, we are mindful of the fact that we are examining past actions with the considerable assistance of hindsight. We must, nevertheless, attempt to determine whether or not the dischargers, in fact, have been and propose to be duly diligent in their efforts to achieve compliance at the earliest practicable dates.

The fact that the dischargers, largely through interim measures, have eliminated some out-of-compliance discharges and have reduced the degree and frequency of others to the extent that the remaining out-of-compliance discharges will probably result in no adverse impacts on the quality of the receiving waters is some indication of good faith on the part of the dischargers. As noted above (page 15), good faith efforts by the dischargers are a factor in favor of taking less vigorous enforcement actions.

However, following our own instructions to the Regional Boards regarding issuance of time schedule orders, as set forth at page 15 above, if we find after reviewing all the evidence that failure to achieve compliance may have resulted from the discharger's lack of diligence in attempting to comply with its permit, a Cease and Desist Order is the appropriate enforcement action. Based on the evidence in this case, as more fully set forth below, we find that there is some question as to whether the dischargers other than SDG&E did exercise due diligence in attempting to comply with BPCTCA by July 1, 1977, and that, therefore, Cease and Desist

Orders should have been issued to all dischargers other than SDG&E. This conclusion does not apply to the four plants (PG&E's Humboldt Bay, PG&E's Moss Landing, SCE's Huntington Beach, and LADWP's Harbor) which we find in our discussion of these individual plants are currently in compliance with guideline requirements.

We have found that the type of enforcement actions taken by the Regional Boards was, in most cases, improper. However, we must also examine separately whether the particular time schedules imposed by the Regional Boards were appropriate. Close examination of the Regional Board enforcement orders and the evidence submitted to this Board reveals that most of the time schedules for future actions contained therein could be revised to require full compliance at an earlier date for some waste streams, compliance with more stringent interim effluent limits, and/or implementation of interim treatment procedures. In general, the dischargers committed to take the interim actions in testimony before the State Board.

For clarity, analyses of the time schedules for each discharger and each facility and the commitment(s) made regarding its discharges are shown separately below. Further, although we do not discuss it with respect to each individual time schedule, we conclude that any time schedule which permits compliance with EPA guidelines at any time subsequent to the April 1, 1979, extension granted by Congress in the Clean Water Act of 1977 (see page 9, et seq., above) should be revised to require compliance on or before April 1, 1979. This conclusion is not based on any strict legal obligation on our part to impose this earlier compliance date (see our discussion beginning at page 10, above) but

rather on our interpretation that Section 309(a)(5)(B) evinces a strong Congressional intent that compliance be achieved by April 1, 1979, wherever feasible and on our conclusion that in these cases it is an achievable compliance date.

PACIFIC GAS AND ELECTRIC COMPANY

In general, PG&E proceeded and proposes to proceed toward compliance with its NPDES permits as follows:

January 1975: Began preliminary engineering. This included mapping of existing facilities and obtaining quantitative data on waste streams.

August 1975: Hired consultant - Betz Environmental Engineers, Inc. PG&E recognized that it needed outside technical assistance in designing the facilities necessary to assure compliance.

1976 through 1979: Continuing parallel design and construction efforts. It appears that during 1976 and the first half of 1977 the major emphasis was on design, with some construction proceeding concurrently and that by mid-1977 the emphasis had shifted to construction with only minor design efforts remaining.

November 16, 1979: Final compliance with all NPDES permits. The last plant required to be in full compliance in accordance with the Regional Board enforcement orders is Moss Landing.

In general, we find that PG&E's proposed schedules for future actions, if complied with, do show due diligence. However,

we have some doubts regarding the appropriateness of the activities that occurred prior to the middle of 1976. For example: 1) We believe that PG&E could have begun mapping its existing facilities as early as the publication of the proposed Guidelines, nine months sooner than they actually began. The proposed Guidelines should have been sufficient to indicate the necessity of this action. 2) We believe that PG&E could have examined the capabilities of its own staff to plan and design the necessary treatment facilities, determined the necessity of obtaining the assistance of a consultant, and brought the consultant on board in less than the ten months that were expended. 3) During the Fall of 1975, PG&E was working toward designs based on collecting all waste streams in separate ponds. Subsequently, they were forced by the physical restraints of several plant sites to abandon this design as a general approach that could be used at all plants.^{4/} We believe that it should have been possible for PG&E to determine that this approach would not work at at least some of their plants and thus to have begun studying alternates sooner. We recognize that this, even more than the other items cited here, may have been the result of an honest error. Had PG&E proceeded as discussed above, it could have brought all of its plants into full compliance at significantly earlier dates, perhaps as much as one year sooner than currently expected.

^{4/} Reporter's Transcript of State Board hearing of October 3, 1977 (hereafter, R.T.) at Page 66.

PG&E Potrero

The Regional Board enforcement order for this plant provides a time schedule for compliance with the copper, iron, and suspended solids limitations on boiler blowdown, metal cleaning wastes, and low volume wastes.

The Regional Board enforcement order specifies a time schedule for achieving full compliance by August 1, 1978. The time schedule submitted to the Regional Board by PG&E on March 31, 1977, calls for full compliance in September of 1979. The shortening of the time schedule shows that the Regional Board did, in fact, carefully review the time schedules submitted by PG&E with the objective of requiring compliance at the earliest practicable date.

Mr. Williams testified that, pending completion of treatment facilities, all metal cleaning wastes will be transported to an approved disposal site.^{5/} Thus, all effluent limitations for this waste stream should be immediately effective.

Testimony by Mr. Williams indicates that PG&E will pursue the possibility of discharging some waste streams from this plant to the San Francisco city sewer system.^{6/} PG&E should be required to submit a written report or reports on these efforts and more restrictive interim effluent limitations or full compliance at an earlier date should be required if either appear appropriate.

^{5/} R.T. at Page 70.

^{6/} R.T. at Page 71; PG&E Exhibit 1 at Pages 10, 30, 32, and 33.

PG&E Hunters Point

The Regional Board enforcement order for this plant provides a time schedule for compliance with the copper, iron, and suspended solids limitations on boiler blowdown and metal cleaning wastes.

The Regional Board enforcement order specifies a time schedule for achieving full compliance by December 1, 1978. The time schedule submitted to the Regional Board by PG&E on March 31, 1977, calls for full compliance in July of 1979. The shortening of the time schedule shows that the Regional Board did, in fact, carefully review the time schedules submitted by PG&E with the objective of requiring compliance at the earliest practicable date.

Mr. Williams testified that, pending completion of treatment facilities, all metal cleaning wastes will be transported to an approved disposal site.^{7/} Thus, all effluent limitations for this waste stream should be immediately effective.

Testimony by Mr. Williams indicates that PG&E will pursue the possibility of discharging some waste streams from this plant to the San Francisco city sewer system.^{8/} PG&E should be required to submit a written report or reports on these efforts and more restrictive interim effluent limitations or full compliance at an earlier date should be required if either appear appropriate.

^{7/} R.T. Page 70.

^{8/} R.T., Page 71; PG&E Exhibit 1, Pages 10, 32, and 33.

PG&E Oleum

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on boiler blowdown, low volume, metal cleaning, and sanitary wastes.

The Regional Board enforcement order specifies a time schedule for achieving full compliance by November 1, 1979.

This time schedule corresponds with that submitted to the Regional Board by PG&E on March 31, 1977.

Mr. Williams testified that no metal cleaning wastes are generated at this plant.^{9/} Thus, all effluent limitations for this waste stream should be immediately effective.

Mr. Williams further testified that sanitary sewage is being discharged through a septic tank and leach fields.^{10/} Thus, all effluent limitations for this waste stream, also, should be immediately effective.

PG&E Avon

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on water treatment and evaporator blowdown, boiler blowdown, cooling tower blowdown, storm runoff, and boiler cleaning blowdown.

The Regional Board enforcement order specifies a time schedule for achieving full compliance by July 1, 1979. This time schedule corresponds with that submitted to the Regional Board by PG&E on March 31, 1977.

^{9/} R.T., Page 72

^{10/} PG&E Exhibit 1, Page 32.

Nothing in the record indicates the necessity of any changes in the time schedule contained in the Regional Board enforcement order.

PG&E Martinez

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on water treatment wastes and evaporator blowdown, boiler blowdown, cooling tower blowdown, sewage which receives septic tank treatment, storm runoff, and boiler cleaning wastes.

The Regional Board enforcement order specifies a time schedule for achieving full compliance by October 1, 1979. The time schedule submitted to the Regional Board by PG&E on March 31, 1977, calls for full compliance by September 1, 1979. The time schedule has been lengthened by one month from the time schedule submitted by PG&E.

Mr. Williams testified that a rerouting of septic tank effluent at this plant has been completed.^{11/} Thus, all effluent limitations on this waste stream should be immediately effective.

PG&E Pittsburg

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on suspended solids in low volume wastes, boiler blowdown, and metal cleaning wastes; and with the limitations on copper and iron in boiler blowdown, metal cleaning wastes, a portion of the low volume wastes, and tank farm drainage.

^{11/} PG&E Exhibit 1, Page 31.

The Regional Board enforcement order specifies a time schedule for achieving full compliance by September 1, 1978. The time schedule submitted to the Regional Board by PG&E on March 31, 1977, calls for full compliance on January 1, 1980. The shortening of the time to achieve full compliance shows that the Regional Board did, in fact, carefully review the time schedules submitted by PG&E with the objective of requiring compliance at the earliest practicable date.

Mr. Williams testified that the metal cleaning, air preheater wash, fireside wash, and hot process softener sludge waste streams are transported to evaporation basins and no discharge results.^{12/} Thus, all effluent limitations for these waste streams should be immediately effective.

PG&E Contra Costa

The Regional Board enforcement order provides time schedules for compliance with the suspended solids limitations on boiler blowdown from Units 1-6, 9, and 10; metal cleaning wastes from Units 1-6, 9, and 10; evaporator blowdown from Units 1-8; storm drainage; distilled water tank drainage; waste from demineralizer regeneration; and with the limitations on residual chlorine in the once through cooling water from Units 1-7. Additionally, a time schedule is provided for elimination of a discharge consisting of storm drainage from Units 6-7 and boiler blowdown from Units 4-5 as a separate discharge. However, while the time for elimination of this separate discharge has passed, the discharge was eliminated by combining it with other discharges and thus the waste remains subject to other provisions of the Regional Board enforcement order.

The Regional Board enforcement order specifies the following time schedules: achieve full compliance with the limitations on discharge 003 by October 15, 1977; achieve full compliance with the suspended solids limitations on discharges 005 and 008 by October 1, 1978; achieve full compliance with the suspended solids limitations on discharges 004A, 004B, and 007 by January 1, 1979; and achieve full compliance with the residual chlorine limitations on discharges 001 and 002 by July 1, 1979. The time schedule submitted to the Regional Board by PG&E on March 31, 1977, calls for full compliance on January 1, 1980. The shortening of the time to achieve full compliance shows that the Regional Board did, in fact, carefully review the time schedules submitted by PG&E with the objective of requiring compliance at the earliest practicable date.

Mr. Williams testified that the metal cleaning, air preheater wash, and fireside wash waste streams are transported to evaporation basins and no discharge results.^{13/} The discharge of these waste streams without treatment is effectively prohibited by the fact that there is no time schedule for their compliance with the limitations on iron and copper.

PG&E Humboldt Bay

The Regional Board enforcement order provides a time schedule for compliance with the limitations on metal cleaning and low volume wastes provided monitoring conducted between October 1, 1977 and March 1, 1978, indicates that facilities already installed do not result in full compliance.

The Regional Board enforcement order specifies a time schedule calling for completion of metal cleaning waste and low volume waste ponds and associated piping by October 1, 1977; monitoring effluent for compliance with limitations until March 1, 1978; and, if full compliance is not achieved, installing any necessary additional facilities by September 1, 1979. The time schedule submitted to the Regional Board by PG&E on March 31, 1977, calls for full compliance by September 1, 1979. The revisions of intermediate dates in the proposed time schedule made by the Regional Board show that the Regional Board did, in fact, carefully review the time schedule submitted by PG&E.

There appears to be a reasonable expectation that the facilities already installed at this plant will result in full compliance with all of the effluent limitations in the NPDES permit.^{14/} The Regional Board enforcement order should be rescinded.

PG&E Moss Landing

The Regional Board enforcement order for this plant provides a time schedule for compliance with all limitations on the boiler blowdown and metal cleaning waste streams. A time schedule is also provided for elimination of the make-up water system evaporator blowdown and the water softener blowdown waste streams, however, the compliance date specified has since passed.

^{14/} R.T., Pages 74-75.

The Regional Board enforcement order specifies the following time schedule: eliminate discharges 003 and 006 by September 1, 1977; complete interim metal cleaning waste handling and treatment system by October 3, 1977; achieve full compliance with all limitations on boiler blowdown by March 1, 1978; and achieve full compliance with all effluent limitations by November 16, 1979. This schedule corresponds with that submitted by PG&E in their report dated May 23, 1977, titled "Report on Pacific Gas and Electric Company's Effluent Control Project".

Mr. Williams testified that, pending completion of treatment facilities, all metal cleaning wastes will be transported to an approved disposal site,^{15/} Since the time schedules for compliance with the effluent limitations on all other waste streams have since expired, the Regional Board enforcement order should be rescinded.

PG&E Morro Bay

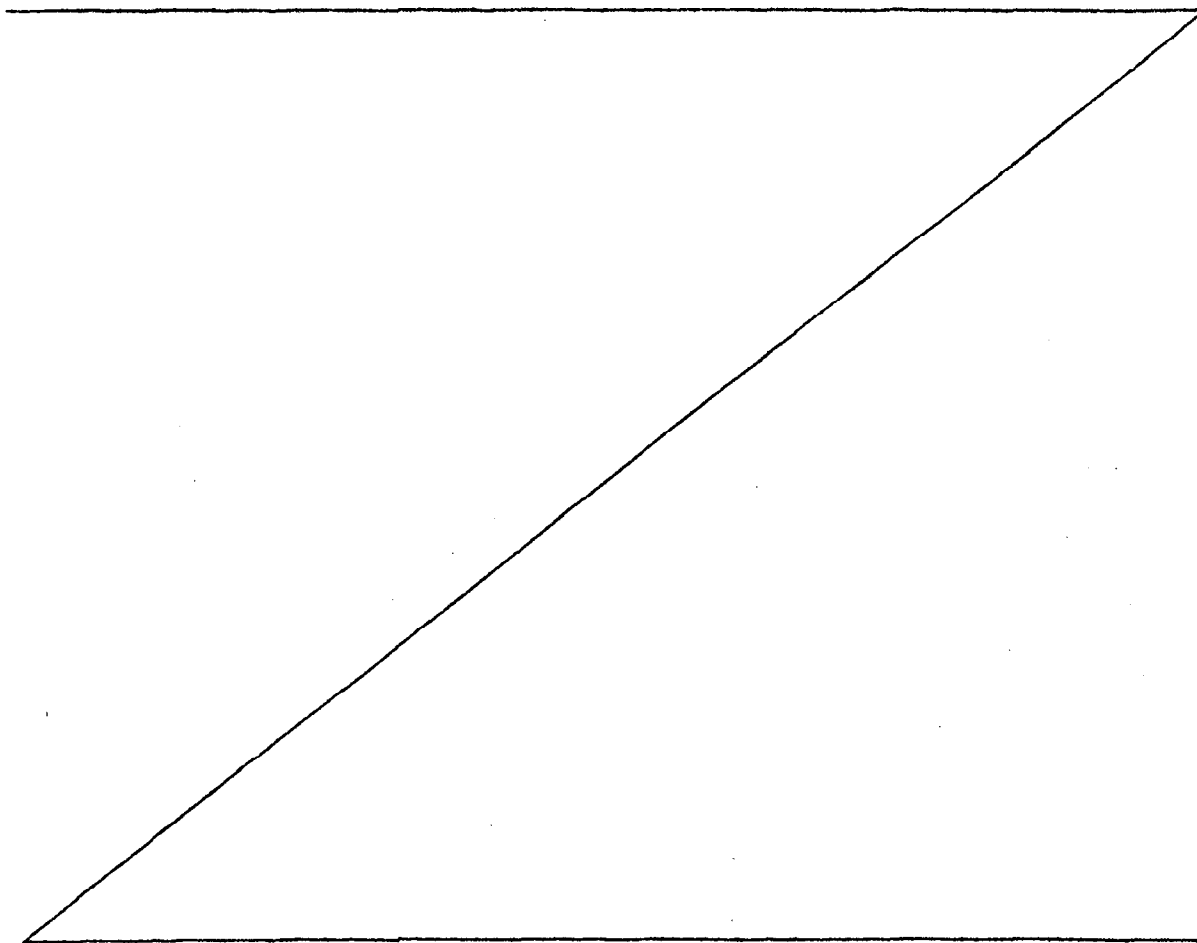
The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on the boiler blowdown and metal cleaning waste streams.

The Regional Board enforcement order specifies the following time schedule: complete interim metal cleaning waste treatment and handling system by September 1, 1977; complete interim boiler blowdown treatment and handling system by October 3, 1977; achieve full compliance with all limitations on boiler blowdown by December 1, 1978; and achieve full compliance with all

^{15/} R.T., Page 70.

effluent limitations by September 3, 1979. This schedule corresponds with that submitted by PG&E in their report dated May 23, 1977, titled "Report on Pacific Gas and Electric Company's Effluent Control Program".

Mr. Williams testified that, pending completion of treatment facilities, all metal cleaning wastes will be transported to an approved disposal site.^{16/} Thus, all effluent limitations for this waste stream should be immediately effective.



^{16/} R.T., Page 70.

SAN DIEGO GAS AND ELECTRIC COMPANY

In general, SDG&E proceeded and proposes to proceed toward compliance with its NPDES permits as follows:

January 1975: Began preliminary engineering studies and selection of an architect/engineer.

May 1976: Began detailed design.

February 1977 through May 1978: Construction and installation of pollution control facilities.

September 1, 1978: Final compliance with all NPDES permits. The last plant required to be in full compliance in accordance with the Regional Board enforcement orders is Encina.

In general, we cannot find that SDG&E's past and proposed future progress is unreasonable. It appears that some of the preliminary mapping and data gathering could have been started when the proposed Guidelines were published rather than after promulgation of the final Guidelines. However, we cannot say that such action would have resulted in full compliance at a significantly earlier date. We note that SDG&E was delayed by five months as a result of their application to the California Pollution Control Financing Authority for tax free financing of their pollution control facilities.

SDG&E Station B

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations for metal cleaning wastes, boiler blowdown, and low volume wastes.

The Regional Board enforcement order specifies a time schedule for achieving full compliance by July 1, 1978. This time schedule corresponds with the time schedule submitted to the Regional Board by SDG&E.

Mr. Dietz testified that all metal cleaning wastes will be transported to approved disposal sites.^{17/} Thus, all limitations on this waste stream should be immediately effective.

SDG&E South Bay, Encina, and Silver Gate

The Regional Board enforcement orders for these plants provide time schedules for compliance with the limitations for metal cleaning wastes, boiler blowdown, and low volume wastes.

The Regional Board enforcement orders specify time schedules for attaining full compliance with all effluent limitations at the South Bay and Silver Gate plants by June 1, 1978, and at the Encina plant by September 1, 1978. These time schedules correspond with those submitted to the Regional Board by SDG&E.

Mr. Dietz testified that all metal cleaning wastes will be transported to approved disposal sites.^{17/} Thus, all limitations on this waste stream should be immediately effective.

Mr. Dietz further testified that most boiler blowdown from these plants is being directed to the evaporators for reuse.^{18/}

^{17/} R.T., Page 101, SDG&E Exhibit 1, Page 5.

^{18/} R.T., Page 102.

Mr. Dietz testified that all fireside wash and air preheater wash wastes from all four plants will be placed in holding ponds for sedimentation prior to discharge.^{19/} This may not result in a discharge that is in compliance with all effluent limitations, but there is good reason to expect that the quality of the effluent will be substantially improved. The Regional Board enforcement orders should require partial treatment of these low volume waste streams in accordance with this commitment by SDG&E.

^{19/} R.T., Page 102.

SOUTHERN CALIFORNIA EDISON

In general, SCE proceeded and proposes to proceed toward compliance with its NPDES permits as follows:

October 1974-March 1975: Preliminary review of in-plant wastes.

March 1975-July 1976: Comprehensive review and assessment of in-plant waste streams and problem areas.

August 1975-July 1976: Chemical treatability tests.

October 1975-February 1976: Conceptual engineering.

June 1976-June 1978: Preliminary engineering (design).

February 1978-July 1979: Equipment delivery and installation.

September 1, 1979: Final compliance with all NPDES permits. The last plants required to be in compliance in accordance with the Regional Board orders are Alamitos, Redondo, and Mandalay.

In general, we find that SCE's proposed schedules for further actions, if complied with, do show due diligence. However, we have some doubts regarding the appropriateness of their past activities. For example: 1) We believe that SCE could have begun some of the necessary preliminary studies as early as the publication of the proposed Guidelines, six months sooner than they actually began. The proposed Guidelines should have been sufficient to indicate the necessity and scope of some of the studies. 2) We believe that SCE could have started design of the necessary waste collection facilities earlier than they actually did. This work was necessary regardless of the outcome of the treatability studies. Considering SCE's decision to transport metal cleaning wastes to disposal sites as a long-term

solution, it appears that this would have resulted in compliance with all limitations on metal cleaning wastes at an earlier date.

3) We believe that SCE could have begun design of some of the necessary treatment facilities (for example, the waste collection facilities and treatment facilities for some of the low volume wastes) at an earlier date. We recognize SCE's reluctance to proceed into design while the treatability studies were incomplete, and we do not contend that it would have been reasonable to expect SCE to complete the design of all treatment facilities and begin construction prior to completion of the treatability studies. However, we believe that some design on some of the treatment facilities could have been done sooner than it actually was. Had SCE proceeded as discussed above, it could have brought all of its plants into full compliance at a significantly earlier date, perhaps as much as one year earlier than currently expected.

SCE Huntington Beach

The Regional Board enforcement order for this plant provides a time schedule for compliance with the effluent limitations on metal cleaning wastes. The Regional Board order prescribing waste discharge requirements for this plant recommends that the Administrator of EPA grant a "fundamental difference" variance from Guideline based limitations for this waste stream. The Administrator, as of this date, has made no decision on the recommended variance.

The Regional Board enforcement order specifies a time schedule for achieving full compliance with all limitations by July 1, 1979. This time schedule corresponds with that submitted to the Regional Board by SCE.

However, SCE has committed to transport all future metal cleaning wastes to approved disposal sites.^{20/} Thus, the Regional Board enforcement order should be rescinded.

SCE Alamitos

The Regional Board enforcement order for this plant provides time schedules for compliance with the effluent limitations on free available chlorine, the copper and iron limitations on boiler blowdown and metal cleaning wastes, and the receiving water limitation that the ambient pH not be changed by more than 0.2 units. Additionally, time schedules relating to the elimination of septic tank overflows and effluent limitations on sanitary wastes were provided by the Regional Board. The compliance dates for the latter two discharges have since passed. The Regional Board order prescribing waste discharge requirements for this plant recommends that the Administrator of EPA grant "fundamental difference" variances from Guideline based limitations on metal cleaning wastes, boiler blowdown, and low volume waste. The Administrator, as of this date, has made no decision on the recommended variances.

The Regional Board enforcement order specifies the following time schedules: achieve compliance with the prohibition against the discharge of septic tank overflow wastes and achieve compliance with the effluent limitations on sanitary wastes by November 1, 1977; achieve compliance with the effluent limitations

^{20/} Letter SCE to State Board dated October 13, 1977.

on sanitary wastes by November 1, 1977; achieve compliance with the effluent limitations on free available chlorine by August 1, 1979; achieve compliance with the copper and iron limitations for metal cleaning wastes by September 1, 1979; achieve compliance with the copper and iron limitations for boiler blowdown by May 1, 1979; and achieve compliance with the receiving water limitation that the ambient pH not be changed by more than 0.2 units by June 1, 1979. These time schedules correspond with those submitted to the Regional Board by SCE.

However, SCE has committed to retain and transport to approved disposal sites the wastes from all future metal cleanings.^{21/} Thus, all limitations on this waste stream should be immediately effective.

SCE has stated that as of December 1977, they would be able to retain and at least partially treat the boiler blowdown from Units 1 and 2.^{21/} SCE should be required to partially treat the boiler blowdown from Units 1 and 2 in accordance with this commitment.

SCE Redondo

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on free available chlorine, the suspended solids limitations on metal cleaning wastes, boiler blowdown, and low volume wastes; the iron and copper limitations on metal cleaning wastes and boiler blowdown;

^{21/} Letter SCE to State Board dated October 13, 1977.

and the receiving water limitation that the ambient pH not be changed by more than 0.2 units. The Regional Board order prescribing waste discharge requirements for this plant recommends that the Administrator of EPA grant "fundamental difference" variances from Guideline based limitations on metal cleaning wastes, the boiler blowdown, and low volume wastes. The Administrator, as of this date, has made no decision on the recommended variances.

The Regional Board enforcement order specifies the following time schedules: achieve compliance with the effluent limitations on free available chlorine by August 1, 1979; achieve compliance with the effluent limitations on suspended solids in metal cleaning wastes, boiler blowdown, and low volume wastes by November 1, 1978; achieve compliance with the effluent limitations on copper and iron in metal cleaning wastes by September 1, 1979; achieve compliance with the effluent limitations on copper and iron in boiler blowdown by May 1, 1979; and achieve compliance with the receiving water limitation that the ambient pH not be changed by more than 0.2 units by June 1, 1979. These time schedules correspond with those submitted to the Regional Board by SCE.

However, SCE committed to retaining (through use of temporary pumps and piping) and transporting to approved disposal sites all future metal cleaning wastes.^{22/} Thus, all limitations on this waste stream should be immediately effective.

^{22/} Letter SCE to State Board dated December 15, 1977.
Letter SCE to Regional Board dated January 9, 1978.
Letter SCE to State Board dated February 2, 1978.

SCE Mandalay

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on free available chlorine; suspended solids limitations on metal cleaning wastes, boiler blowdown, and low volume wastes; and iron and copper limitations on metal cleaning wastes and boiler blowdown. The Regional Board order prescribing waste discharge requirements for this plant recommends that the Administrator of EPA grant "fundamental difference" variances from Guideline based limitations on metal cleaning wastes, boiler blowdown, and low volume wastes. The Administrator, as of this date, has made no decision on the recommended variances.

The Regional Board enforcement order specifies the following time schedules: achieve compliance with the effluent limitations on free available chlorine by August 1, 1979; achieve compliance with the effluent limitations on copper and iron in metal cleaning wastes and boiler blowdown by September 1, 1979; and achieve compliance with the effluent limitations on suspended solids in metal cleaning wastes, boiler blowdown, and low volume wastes by November 1, 1978. These time schedules correspond with those submitted to the Regional Board by SCE.

However, SCE committed to retaining and transporting to approved disposal sites all future metal cleaning wastes from this plant.^{23/} Thus, all limitations on this waste stream should be immediately effective.

SCE also committed to achieve compliance with low volume waste limitation by sedimentation in a retention basin.^{23/} Thus,

^{23/} Letter SCE to State Board dated October 13, 1977.

all limitations on this waste stream should be immediately effective.

SCE Long Beach

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on free available chlorine, the copper and iron limitations on boiler blowdown, and the receiving water limitation that the ambient pH not be changed by more than 0.2 units. The Regional Board order prescribing waste discharge requirements for this plant recommends that the Administrator of EPA grant "fundamental difference" variances from Guideline based limitations on metal cleaning wastes, boiler blowdown, and low volume wastes. The Administrator, as of this date, has made no decision on the recommended variances.

The Regional Board enforcement order specifies the following time schedules: achieve compliance with the effluent limitations on free available chlorine by August 1, 1979; achieve compliance with the effluent limitations on copper and iron in boiler blowdown by May 1, 1979; and achieve compliance with the receiving water limitation that the ambient pH not be changed by more than 0.2 units by June 1, 1979. These time schedules correspond with those submitted to the Regional Board by SCE.

SCE reports that the boiler blowdown from Units 8R and 9 is directed to a retention basin for partial treatment prior to discharge.^{24/} It would be appropriate to require partial treatment of the boiler blowdown from Units 8R and 9 in accordance with the commitment by SCE.

^{24/} Letter SCE to State Board dated October 13, 1977.

SCE Ormond Beach

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on free available chlorine, the copper and iron limitations on boiler blowdown, and the receiving water limitation that the ambient pH not be changed by more than 0.2 units. The Regional Board order prescribing waste discharge requirements for this plant recommends that the Administrator of EPA grant "fundamental difference" variances from Guideline based limitations on metal cleaning wastes, boiler blowdown, and low volume wastes. The Administrator, as of this date, has made no decision on the recommended variances.

The Regional Board enforcement order specifies the following time schedules: achieve compliance with the effluent limitations on free available chlorine and with the effluent limitations on copper and iron in metal cleaning wastes and boiler blowdown by July 1, 1979; and achieve compliance with the receiving water limitation that ambient pH not be changed by more than 0.2 units by June 1, 1979. These time schedules correspond with those submitted to the Regional Board by SCE.

SCE reports that the boiler blowdown is in compliance except during start-up of two small auxiliary boilers.^{25/}

^{25/} Letter SCE to State Board dated October 13, 1977.

A time schedule should be allowed for extended compliance with the boiler blowdown limitations for the auxiliary boilers only.

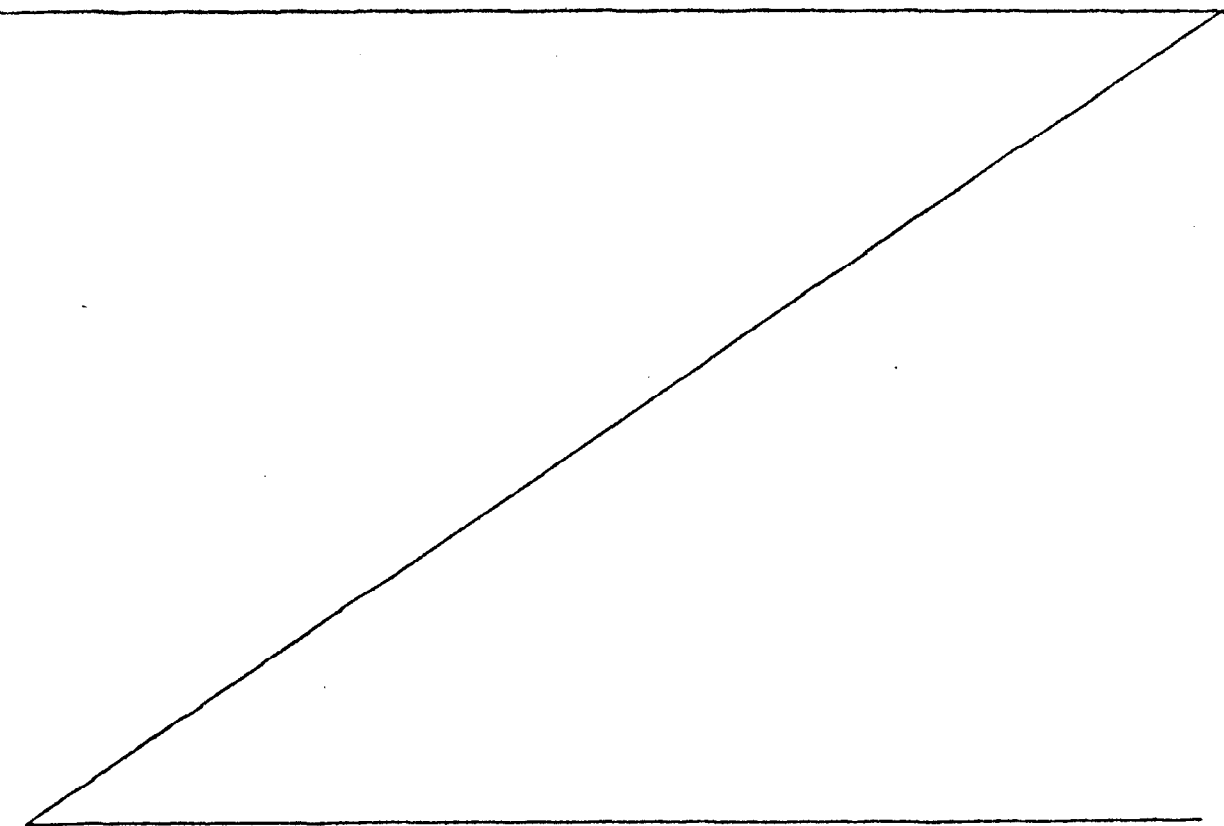
SCE El Segundo

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on free available chlorine, and on copper and iron in the metal cleaning waste and boiler blowdown. The Regional Board enforcement order also provides a time schedule for compliance with a prohibition against septic tank overflow and with the limitations on sanitary wastes; however, the time for compliance with these requirements has since passed. The Regional Board order prescribing waste discharge requirements for this plant recommends that the Administrator of EPA grant "fundamental difference" variances from Guideline based limitations on metal cleaning wastes, boiler blowdown, and low volume wastes. The Administrator, as of this date, has made no decision on the recommended variances.

The Regional Board enforcement order specifies the following time schedules: achieve compliance with the prohibition against the discharge of septic tank overflow wastes and with the effluent limitations on sanitary wastes by November 1, 1977; achieve compliance with the effluent limitations on free available chlorine and with the effluent limitations on copper and iron in metal cleaning wastes by August 1, 1979; and achieve compliance with the effluent limitations on copper and iron in boiler blowdown by May 1, 1979. These time schedules correspond with those submitted to the Regional Board by SCE.

However, SCE committed to expediting construction of a retention pond prior to the next acid cleaning and to transporting the metal cleaning wastes to approved disposal sites.^{26/} Thus, all limitations on this waste stream should be immediately applicable.

SCE further reports that all boiler blowdown is directed to retention basins for partial treatment prior to discharge pending completion of facilities to provide treatment to the required levels.^{26/} It would be appropriate to require partial treatment of the boiler blowdown in accordance with the commitment by SCE.



^{26/} Letter SCE to State Board dated October 13, 1977.

LOS ANGELES DEPARTMENT OF WATER AND POWER

In general, LADWP has proceeded and proposes to proceed toward compliance with its NPDES permits as follows:

March 1973: Conferred with consultant regarding treatability of wastewaters.

September 1973-December 1973: Design first stage wastewater collection and retention systems for the Haynes and Scattergood plants.

January 1974-February 1974: Started construction on the first stage wastewater collection systems at the Scattergood and Haynes plants.

October 1974-June 1975: Identified and evaluated process wastewater streams. Completed construction of first stage wastewater collection systems at Scattergood plant.

July 1975-March 1976: Reviewed operating procedures, piping drawings and other data regarding the Haynes and Scattergood plants. Completed conceptual design for second stage wastewater collection systems for the Haynes and Scattergood plants. Completed construction of first stage wastewater collection system at the Haynes plant.

April 1976-August 1976: Conducted laboratory treatability studies. Conferred with consultants and vendors regarding possible treatment systems. Completed conceptual design of chemical treatment systems.

September 1976-April 1977: Completed conceptual design of wastewater collection system for the Harbor plant. Completed preliminary design of chemical treat-

ment systems. Prepared wastewater flow diagrams for second stage collection system.

May 1977-March 1978: Detailed design.

April 1978: Begin obtaining and installing treatment equipment.

March 1979-April 1979: Low volume waste treatment equipment installed.

March 1980: Final compliance with all NPDES permits. The last plants required to be in compliance are Haynes and Scattergood.

In general, we find that LADWP's proposed schedules for future actions, if complied with, do show due diligence. However, we have some doubts regarding the appropriateness of their past activities. For example: Almost four years will have elapsed between promulgation of the Guidelines and the scheduled date for beginning to obtain the necessary treatment equipment. This appears to be an excessive amount of time considering LADWP's good early start prior to promulgation of the Guidelines. Had LADWP followed up on its good early start, it could have brought all of its plants into full compliance at a significantly earlier date, perhaps as much as two years sooner than currently expected.

LADWP Harbor

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on low volume wastes. The Regional Board order prescribing waste discharge requirements for this plant recommends that the Admin-

istrator or EPA grant "fundamental difference" variances from Guideline based limitations on metal cleaning wastes, boiler blowdown, and low volume wastes. The Administrator, as of this date, has made no decision on the recommended variances.

The Regional Board enforcement order specifies a time schedule for achieving full compliance with all limitations by February 1, 1979. This time schedule corresponds with that submitted to the Regional Board by LADWP.

Mr. Gladbach testified that all future discharges will be in compliance with all effluent limitations.^{27/} Thus, the Regional Board enforcement order should be rescinded.

LADWP Scattergood

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on metal cleaning wastes, boiler blowdown, and low volume wastes. The Regional Board order prescribing waste discharge requirements for this plant recommends that the Administrator of EPA approve "fundamental difference" variances from Guideline based limitations on metal cleaning wastes, cooling tower blowdown, boiler blowdown, and low volume wastes. As of this date, the Administrator has made no decision on the recommended variances.

The Regional Board enforcement order specifies the following time schedules: achieve compliance with the effluent limitations for metal cleaning wastes and for boiler blowdown by April 1, 1980; and achieve compliance with the effluent limitations

^{27/} R. T., Pages 133 and 134.

for low volume wastes by May 1, 1979. These time schedules correspond with those submitted to the Regional Board by LADWP.

However, Mr. Gladbach testified that all metal cleaning wastes are being transported to approved disposal sites.^{28/} Thus, all limitations on this waste stream should be immediately applicable.

Mr. Gladbach further testified that LADWP has constructed facilities to route most of the low volume wastes at this plant to an oil-water separator and holding ponds for partial treatment prior to discharge.^{29/} It would be appropriate to require partial treatment of specific low volume wastes in accordance with this commitment by LADWP.

LADWP Haynes

The Regional Board enforcement order for this plant provides a time schedule for compliance with the limitations on metal cleaning wastes, boiler blowdown, and low volume wastes. The Regional Board order prescribing waste discharge requirements for this plant recommends that the Administrator of EPA grant "fundamental difference" variances from Guideline based limitations on metal cleaning wastes, boiler blowdown, and low volume wastes. As of this date, the Administrator of EPA has made no decision on the recommended variances.

The Regional Board enforcement order specifies the following time schedules: achieve compliance with the effluent limitations

^{28/} R.T., Page 130.

^{29/} R.T., Pages 132 and 133.

for metal cleaning wastes and boiler blowdown by April 1, 1980; and achieve compliance with the effluent limitations for low volume wastes by May 1, 1979. These time schedules correspond with those submitted to the Regional Board by LADWP.

However, Mr. Gladbach testified that all metal cleaning wastes are being transported to approved disposal sites.^{30/} Thus, all limitations on this waste stream should be immediately effective.

Mr. Gladbach further testified that all boiler blowdown and low volume wastes from this plant receive partial treatment by an oil-water separator and by being routed through a settling basin.^{31/} It would be appropriate to require partial treatment of the boiler blowdown in accordance with this commitment by LADWP.

III. CONCLUSIONS

After review of this matter, and for the reasons heretofore expressed, we conclude that there is doubt whether the dischargers, other than SDG&E, have done everything that could reasonably have been expected to achieve compliance by July 1, 1977. Thus, in accordance with our guidance to the Regional Boards (see Page 15 above) we conclude that, in general the appropriate enforcement actions would have been cease and desist orders. Considering the delays for which SDG&E cannot be blamed and SDG&E's diligent efforts to comply with requirements (discussed at Pages 16-18 and 32 above), we conclude that an enforcement order for issuance of a time schedule was the appropriate enforcement action with respect to SDG&E and that the compliance dates specified in the

^{30/} R.T. , Page 130

^{31/} LADWP Exhibit 1, Page 15

Regional Board enforcement orders for the SDG&E plants are appropriate. Further, as noted above (Pages 28, 29, 36, and 46, respectively), we conclude that the Regional Board enforcement orders against the PG&E Humboldt Bay, PG&E Moss Landing, SCE Huntington Beach, and LADWP Harbor plants should be rescinded because testimony of the dischargers at the State Board's hearing was to the effect that these plants are currently able to meet requirements.

The fact that there will be few violations of effluent limitations since the discharges in question are sporadic and infrequent and that such violations will probably cause little if any harm to the quality of the receiving waters weighs heavily in our decision that it was appropriate for the Regional Boards not to refer any of these cases to the Attorney General at this time.

We have concluded that with the exception of SDG&E, PG&E Humboldt Bay, PG&E Moss Landing, SCE Huntington Beach, and LADWP Harbor, the dischargers under consideration here should have received cease and desist orders rather than enforcement orders for issuance of time schedules. In these latter cases, there remains a question as to whether the particular time schedules adopted by the Regional Boards were appropriate. Recent amendments to Section 309 of the Federal Water Pollution Control Act contained in Section 309(a)(5)(B) codify the federal enforcement compliance scheduled letter procedure which was previously administratively adopted by EPA and permit an extension of the July 1, 1977, compliance dates imposed by Section 301 of the Act. However, no extension may be granted for compliance with Best Practicable Control Technology Currently Available beyond April 1, 1979.

Although we do not believe the April 1, 1979, compliance date is directly applicable to our action in adopting Cease and Desist orders for reasons previously discussed, we conclude that April 1, 1979, is a reasonably achievable compliance date for all dischargers for which we issue cease and desist orders as a part of this order and that it is appropriate to impose the April 1, 1979, ultimate compliance date in view of the strong expression of Congressional intent in Section 309 that compliance be achieved by that date.

Therefore, the cease and desist orders which we adopt as a part of this order (see below) contain time schedules none of which extends beyond April 1, 1979 with the exception of the free available chlorine limitation for the PG&E Contra Costa plant. This limitation, which is more restrictive than BPCTCA, was the subject of our Order No. WQ 77-10. These cease and desist orders also reflect our conclusions, set forth as a part of our discussion regarding specific individual facilities, above, that compliance with certain specified effluent limitations could reasonably be achieved earlier than had been required by the Regional Board in question.

IV. ORDER

IT IS HEREBY ORDERED THAT:

1. The Regional Board enforcement orders against the twenty PG&E, SCE, and LADWP plants specifically identified herein are rescinded.
2. The San Diego Regional Board modify its enforcement orders against the four SDG&E plants specifically identified herein consistent with the changes discussed in Issues and Findings herein, and that thereafter the San Diego Regional Board not act to further extend the final compliance dates contained in these enforcement orders. Except that a reasonable extension may

be granted in view of problems encountered by SDG&E as reflected in their letters of February 9 and 10, 1978, to the Executive Officer of the San Diego Regional Board if the Regional Board finds such an extension is necessary. However, in no case may an extension be granted which permits final compliance beyond April 1, 1979.

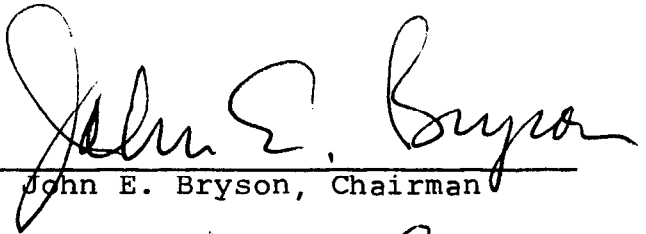
3. The cease and desist orders listed below and attached hereto are hereby adopted:

<u>Facility</u>	<u>Exhibit</u>
PG&E Potrero	A
PG&E Hunters Point	B
PG&E Oleum	C
PG&E Avon	D
PG&E Martinez	E
PG&E Pittsburg	F
PG&E Contra Costa	G
PG&E Morro Bay	H
SCE Alamitos	I
SCE Redondo	J
SCE Mandalay	K
SCE Long Beach	L
SCE Ormond Beach	M
SCE El Segundo	N
LADWP Scattergood	O
LADWP Haynes	P


4. The cease and desist orders adopted herewith are remanded to the jurisdiction of the Regional Boards with the following guidance:
- No extensions of the final compliance dates contained therein shall be provided.
 - The Regional Boards' Executive Officers shall refer all violations of the cease and desist orders that are the result of failure to install adequate treatment facilities to the Attorney General without further action by the Regional Board.

c. The Regional Boards shall, from time to time as they deem appropriate, examine the cease and desist orders and modify them if further reductions of the time for achieving compliance can reasonably be required or if more stringent interim effluent limitations are then appropriate.

Dated: MAR 16 1978



John E. Bryson, Chairman



W. Don Maughan, Vice Chairman



W. W. Adams, Member

