

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petitions of
Dart Industries, Inc., and Truckee
Sanitary District for Review of
Actions by the California Regional
Water Quality Control Board,
Lahontan Region, Concerning Re-
vision of Truckee Sanitary District's
Waste Discharge Requirements. Our
Files Nos. A-192, A-195, A-212(a)
and A-212(b).

Order No. WQ 79-22

BY THE BOARD:

On January 6, 1978, Dart Industries, Inc., (DART) and Truckee Sanitary District (TSD) petitioned the State Board to review the action of the California Regional Water Quality Control Board, Lahontan Region (Regional Board), in establishing the procedure for a public hearing to be held for the purpose of considering adoption of revised waste discharge requirements for TSD. Petitioner TSD supplemented its petition on January 24, 1978. On January 30, 1978, William R. Attwater, Chief Counsel for the State Board, advised petitioners that their petitions would be held in abeyance pending final action by the Regional Board since, in his opinion, the preliminary decision on how to conduct the Regional Board hearing would not be ripe for review until final action by the Regional Board on the proposed revision to TSD's waste discharge requirements. The State Board received supplements to the DART petition on February 3, 1978, and February 24, 1978; and a second supplement to the TSD petition was received on October 27, 1978.

On October 27, 1978, the State Board received petitions from both DART and TSD requesting review of the September 28, 1978, revision of TSD's waste discharge requirements to include a provision stating, "The discharge of waste from this facility is prohibited after January 1, 1978." In addition, review was sought of all proceedings before the Regional Board in connection therewith.

On March 15, 1979, the State Board held a hearing to receive oral argument concerning whether it was appropriate and proper for the Regional Board to amend its Order No. 6-76-118 (waste discharge requirements for TSD) by including the provision discussed above. No additional evidence was allowed to be submitted at the hearing; however, the record remained open until April 9, 1979, for submittal of additional argument by petitioners and the Regional Board relative to certain matters raised at the hearing. Final submittals were received from DART and the Regional Board on April 9, 1979, and from TSD on April 12, 1979.

I. BACKGROUND

Tahoe-Truckee Sanitation Agency (T-TSA) is a regional governmental entity which was formed in 1972 to transport, treat and dispose of wastewater from the North Tahoe Public Utilities District, Tahoe City Public Utility District, Alpine Springs County Water District, Squaw Valley County Water District, Truckee Sanitary District, and the Truckee River Corridor. Construction of a regional treatment plant, which was partially funded with state and federal clean water grant funds, was completed in January 1978. Until completion of the T-TSA facility,

TSD discharged its effluent to evaporation-percolation ponds near the Truckee River in Nevada County.

Between 1972 and October 28, 1976, each set of revised waste discharge requirements for TSD (adopted by the Regional Board on January 25, 1972, August 23, 1973, and November 6, 1975) included a provision requiring the elimination of discharge from the District's facilities when the regional plant began operations. The revised waste discharge requirements which were adopted for TSD on October 28, 1976, did not contain the provision prohibiting further use of TSD's plant once the regional plant was in operation. After discovering that the adopted requirements were in error, the Regional Board staff proposed tentative revised waste discharge requirements in September 1977 which would include the prohibition. Both TSD and DART, the developer of Tahoe-Donner, a large subdivision within TSD which is dependent upon TSD for sewerage service, objected to the reinsertion of the prohibition provision in the TSD requirements, because they wish to use the capacity of the TSD local facilities in addition to TSD's allocated capacity in the T-TSA plant.

On December 8, 1977, the Regional Board directed its staff as to the rules of procedure for the public hearing to be held on the proposed revised requirements. Both TSD and DART filed petitions with the State Board objecting to these procedures which were later formally set forth in a letter dated January 18, 1978, from Terry E. Caldwell, Chairman of the Regional Board, to petitioners.

On March 27, 1978, staff of the Regional Board wrote petitioners stating that in spite of previous discussions regarding a hearing, a hearing would not be held since the omission of the prohibition on discharge after January 1, 1978, was due to an administrative staff error and did not result from any action of the Regional Board. A revised version of the waste discharge requirements was sent to petitioners which included the prohibition. However, at the Regional Board's April 1978 meeting after presentations by DART and TSD, the Board decided to go ahead and hold the hearing.

On September 28, 1978, the Regional Board held the above-referenced hearing about whether to include a provision in TSD's requirements stating that discharge from TSD's community sewage treatment and disposal facilities is prohibited as of January 1, 1978. At the conclusion of that hearing, the Regional Board ordered its Executive Officer to include a provision in TSD's waste discharge requirements that states, "The discharge of waste from this facility is prohibited after January 1, 1978." On October 27, 1978, the State Board received petitions from both DART and TSD concerning the decision by the Regional Board to include this provision in the requirements.

II. DISCUSSION

Many specific issues have been raised in the petitions filed with this Board and at the March 15, 1979, State Board hearing. Since petitioners have raised many detailed technical arguments, we feel obligated to respond to their contentions with

the analysis which follows. However, it is obvious that the real issue will not be resolved by technical responses to technical arguments. The real issue is how the State and its citizens will meet their obligation to protect the quality of the waters of the Truckee River and its tributaries within the confines of the Porter-Cologne Act, the California Environmental Quality Act (CEQA) and the Federal Clean Water Act.

The protection of water quality in the Truckee River Basin rests upon an adequately prepared and periodically reviewed Basin Plan. The planning procedures are the cornerstone of the Porter-Cologne Act and attempts to circumvent such procedures in this matter have caused delay, confusion and wasted expenditures of public funds. While hindsight may support an argument that the Basin Plan should have been reviewed prior to 1979, it wasn't. We are sympathetic with petitioners' concerns that the Basin Plan be updated and also with their desire to have the technical data they have developed considered by the Regional Board. The Regional Board is now in the process of reviewing the plan. Our review of the arguments presented by the parties at the March 15, 1979, hearing, the petitions and the response by the Regional Board and other documents before us in the record lead us to conclude that the Basin Plan must be reviewed by the Regional Board with all deliberate speed. Therefore, by this order we direct the Regional Board to complete such review no later than December 21, 1979. The Regional Board public hearing on proposed changes to the Basin Plan, which is required by Water Code Section 13244, should be held by September 21, 1979, to ensure that the December deadline will be

met. Regional Board final action by December 21 should give petitioners adequate time to respond to any Regional Board decision concerning the plan since there still should be a few years of capacity left at the T-TSA treatment facility. (See March 15, 1979, RT, page 42, lines 3-5.)

We will now respond to the technical contentions that petitioners have asked us to consider.

III. CONTENTIONS AND FINDINGS

1. Contention: Petitioners contend that the Regional Board failed to provide a fair, unbiased and legally adequate hearing prior to the revision of the waste discharge requirements and in so acting deprived petitioners of their right to due process and the hearing guaranteed by Water Code Section 13263. In particular, petitioners objected to the Regional Board's decision to limit the hearing to one day from 9 a.m. to 10 p.m., rather than holding five days of hearing, as requested by petitioners. It is contended that a one-day hearing denies petitioners the right to fully present oral and documentary evidence, fully cross-examine witnesses and rebut evidence and make full written and oral argument.

In addition, it is asserted that petitioners were improperly restricted in their right to cross-examine each other at the September 28, 1978, Regional Board hearing; that irrelevant evidence was admitted into the record and relevant evidence was excluded; that the issues of the hearing were altered in violation of the procedures established by the Regional Board on December 18, 1977; that the prohibition is contrary to the evidence in the record; and the hearing was not conducted in a fair and impartial manner.

Findings: In a letter dated July 28, 1976, Dan J. Cook, Engineer for TSD, submitted a request for administrative revision to the waste discharge requirements for TSD to allow the use of pond "3" for treatment rather than pond "1". The report attached to the letter stated, "The intent of the Lahontan Board Order will not be altered by the requested administrative action." In response to this request, the Regional Board staff circulated tentative revised waste discharge requirements for public comment on August 9, 1976. The discharge prohibition was omitted in these tentative revised requirements and was omitted in every copy of proposed Board Order No. 6-76-118 up to and including in the document actually adopted by the Regional Board at its meeting on October 28, 1976.

Petitioners do not assert that the prohibition was deleted in response to a request by them, nor is there any indication that petitioners were even aware that the prohibition had been omitted until some time after adoption of the order in October 1976.^{1/}

Members and staff of the Regional Board have repeatedly asserted that the deletion was the result of an inadvertent administrative error rather than the result of intentional action by the Board itself. Although weight must be given to the

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1. See, for example, the testimony of Mr. Jack Marquette, Manager of TSD, testifying in response to a question by James E. Thompson, Attorney for Dart Resorts, in June 1977 that the District was under an order from the Regional Board to take its facilities out of service on January 1, 1978 (In the Matter of the Order to Desist and Refrain directed to Dart Resorts before the Department of Real Estate, State of California, No. H-1103 SAC deposition of Howard Jack Marquette -- June 22, 1977).

declarations of those who are in the best position to state their own true intent (Bastajian v. Brown (1941) 19 Cal.2d 209), we are somewhat mystified that a deletion such as this would not have been caught by one of the many individuals who received copies of both the tentative and final order. In an effort to resolve our concerns, we have thoroughly reviewed the record concerning this matter. The transcript of the relevant part of the Regional Board meeting on October 28, 1976, indicates that at no time was removal of the prohibition ever alluded to by anyone in attendance at the hearing. No evidence was taken regarding the propriety of removing the prohibition, and there was no consideration of the environmental impacts related to continued operation of the TSD local facility. In light of these factors, we feel that we must conclude that the omission of the prohibition was due to an inadvertent administrative error.

The Regional Board thus acted properly in reinserting the prohibition on September 28, 1978, so that it was effective as of the adoption of Order No. 6-76-118 in October 1976. Petitioners were notified and provided an opportunity to present evidence on whether the omission was in fact due to a clerical mistake, prior to the Regional Board's action.^{2/} We find this to be both a logical and legal solution to the problem. (See American Trucking Association v. Frisco Transportation Co. (1958) 358 U.S. 133, especially p. 145; see also Witkin, California Procedures, 2nd Ed., Vol. 4, p. 3222-3228.)

2. Transcript of Consideration of Revision to Waste Discharge Requirements for Truckee Sanitary District, Nevada County, September 28, 1978, p. 211.

We cannot agree with the assertion by petitioners that they would have been aggrieved parties with standing to seek review by the State Board in 1976 if the prohibition had in fact been in the order then adopted. As stated in our recently adopted Order No. WQ 79-17 (Petition of Contra Costa County Public Works Department for Review of Order No. 78-69 by the California Regional Water Quality Control Board, San Francisco Bay Region) which dealt with a challenge to effluent limitations which were merely continued in effect from an NPDES permit to an updating of that permit, "The appropriate time for petitioner to raise this issue is long past, and this Board cannot allow the reissuance of a permit to revive review rights on any limitation contained therein." Further, the record indicates^{3/} that petitioner TSD was unaware for many months that the prohibition had been dropped; yet TSD did not file a petition for review of the prohibition even though they apparently were under the impression that it was still included in the requirements. This belies any argument at least on the part of TSD that they would have exercised their statutory right to petition the prohibition within 30 days of its adoption had it been included in the original Order No. 6-76-118.

Since petitioners had no due process or statutory right to a hearing on water quality issues prior to the Regional Board's action in September 1978, we do not find it necessary to consider the adequacy of the manner in which the hearing was in fact conducted.

3. See footnote 1, above.

2. Contention: Petitioner TSD states that under the recent addition to the Water Code of Section 13280 the prohibition cannot be upheld unless there is substantial evidence in the record that discharge of waste from the TSD facility will result in violation of water quality objectives; will impair present or future beneficial uses of water; will cause pollution, nuisance or contamination; or will unreasonably degrade the quality of any waters of the State.

Findings: The above-referenced code section was adopted in 1977 (Stats. 1977, Chap. 1194 [AB 542]) to be effective January 1, 1978. Therefore, this section applies to prohibitions adopted after January 1, 1978.^{4/} The Regional Board's reinsertion of the prohibition with retroactive effect results in its having the same effect as if it were in fact actually in the order adopted October 28, 1976. As a result, Water Code Section 13280 is not applicable.

3. Contention: Petitioners object to the Regional Board's determination that "testimony or cross examination relative to the merits, propriety or impropriety of the Basin Plan will not be accepted."^{5/} It is contended that Water Code Section 13263(a) makes this issue relevant in prescribing waste discharge requirements because it requires the Board to determine whether proposed waste discharge requirements implement the Basin Plan and take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose. Petitioners

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4. For further discussion of the prospective applicability of this code section, see State Board Order No. WQ 78-8 (In the Matter of the Petition of Tahoe-Truckee Sanitation Agency, et al., p. 18).
 5. Letter dated January 18, 1978, from Terry E. Caldwell, Chairman, Regional Board, to Richard Schneider, Attorney for TSD.

argue that requirements cannot be adopted unless necessary to protect a beneficial use and that the TSD discharge will not damage beneficial uses of the receiving waters. Moreover, they allege that the prohibition against TSD's discharge cannot be justified as an implementation of the Basin Plan. In any event, they claim that the Basin Plan, adopted in 1975, is now obsolete and is not a relevant plan to be implemented by waste discharge requirements.

Findings: As we indicated in our earlier Order No. WQ 78-8 (Tahoe-Truckee Sanitation Agency, et al.), the current Basin Plan for Basin 6A clearly reflects the intent of all concerned (the Regional Board as well as T-TSA on behalf of its member entities) at the time the Plan was adopted to abandon the small, local treatment facilities and to regionalize with the planned regional plant being a highly sophisticated advanced waste treatment plant. For example, the Basin Plan (at page I-5-11) states:

"Achievement of the...proposed water quality objectives for the Truckee River, as identified in Chapter 4, will require that effluent limitations that have been placed on the [T-TSA] treatment plant discharge by the Regional Board be met. These effluent requirements are shown in Table 5-6."

Table 5-6 referred to in the above excerpt from the Basin Plan includes a series of effluent limitations achievable only by a tertiary (advanced) waste treatment plant. Thus, it was concluded at the time the Plan was adopted that tertiary treatment would be necessary in the North Tahoe area in order to adequately protect the Truckee River.^{6/}

6. T-TSA's own planning documents also reflect its conclusion that a high level of advanced waste treatment was required

Petitioners argue that, pursuant to State Board Resolution No. 75-77, the resolution approving the Basin Plan for Region 6A, only the stipulated control actions set forth in Chapter 5 of the Basin Plan are to be implemented and that all other actions discussed in Chapter 5 are merely recommendations to be taken under consideration by the State and Regional Boards.^{7/} As discussed above, one of the statements contained in Chapter 5, as cited on page 11 herein, essentially concludes that tertiary treatment is necessary in order to meet the water quality objectives established in Chapter 4. Petitioners contend that this is not one of the stipulated control actions of Chapter 5 and is therefore merely a recommendation to be taken into account by the Regional Board.

6. (cont'd)

to adequately protect the Truckee River. For example, page 1-2 of T-TSA's Preliminary Design Report submitted to the State Board as part of T-TSA's grant application states:

"The proposed treatment facility will incorporate advanced waste treatment facilities capable of producing an extremely high degree of treatment.... Such treatment was shown to be necessary to suitably protect the Truckee River from degradation and to conform to receiving water standards."

It should also be recalled that T-TSA on behalf of its member entities, including petitioner TSD, accepted a grant of approximately \$28 million in state and federal funds for construction of a tertiary treatment plant presumably also based upon a conclusion that tertiary treatment was necessary.

7. The relevant provision of Resolution No. 75-77 reads as follows:

"...the State Board approves Part I of the water quality control plan for the North Lahontan Basin (6A) in accordance with Section 13245 of the Water Code with the understanding that the stipulated control actions set forth in Chapter V are to be implemented, but that identified actions set forth in Chapter V other than control actions are recommendations to be taken under consideration by the State Board, Regional Board, and other appropriate agencies."

Had we fully realized in 1975 that the effect of our Resolution No. 75-77 could be to render conclusions in the Plan regarding necessary levels of treatment recommendations only, it is doubtful that the resolution would have been adopted in its present form.

But even taking the resolution at its face value, i.e., assuming that those actions discussed in Chapter 5 other than those under the heading "Control Actions" are merely recommendations to be considered by the Regional Board, the State Board and other agencies, we feel the action of the Regional Board in this case (i.e., to implement the tertiary treatment requirement and to reserve judgment on the possible issuance of waste discharge requirements for TSD's local plant until the Basin Plan can be reconsidered) was appropriate and proper. Leaving aside the difficulty we have in reading the actual words of the Plan regarding the need for tertiary treatment set forth at page 11 of this order as nothing more than a "recommendation", the recommendation was accepted and implemented by local government (T-TSA) as well as by the State Board and the Environmental Protection Agency in allocating \$28 million in grant funds to the T-TSA project. Under these circumstances, we conclude that future consideration of lesser levels of treatment should proceed, initially, in the planning context and we uphold the action of the Regional Board in reserving consideration of the water quality

evidence offered by DART until it can undertake a thorough Basin Plan Review.^{8/}

Petitioners also argue that adherence to the statements in Chapter 5 of the Plan to the effect that the local treatment plants will be abandoned is not consistent with Section 13360 of the Water Code which states that the State and Regional Boards may not prescribe the "design, location, type of construction or particular manner in which compliance may be had" with their orders. This argument ignores the fact that there is more than a mere difference in the treatment method when one compares TSD's local plant with the T-TSA facilities. There is a major difference in treatment level. TSD's local facility currently achieves secondary treatment. TSD has made no indication that it intends to improve its local treatment plant so that it can achieve the same tertiary treatment levels achieved by T-TSA. The T-TSA proposal accepted by the Regional Board in its planning process was more than a proposal to regionalize. It was a proposal to regionalize and upgrade treatment.

Under these circumstances, we cannot agree with petitioners' contention that the Regional Board's refusal to consider amending waste discharge requirements to permit reopening of TSD's local plant prior to reconsidering its Basin Plan represents an

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8. Petitioners have informed the Board that the current waste discharge requirements for the T-TSA plant are not in compliance with the Basin Plan. While the variations appear to be minor, we have consistently taken the position that waste discharge requirements must implement the Basin Plan. Therefore, the Regional Board must take whatever action is appropriate to make the requirements and the Plan coincide.

impermissible attempt to prescribe the "design, location, type of construction or particular manner" of compliance.

Petitioners imply that the objectives in the Plan are more stringent than reasonably necessary to protect beneficial uses. This issue can only appropriately be considered in the context of possible revision of the objectives in the Plan. At a later point in this order, we direct the Regional Board to consider certain issues during a six-month review of the portion of the North Lahontan Basin Plan affecting the North Tahoe-Truckee River area. We direct the Regional Board to consider possible revisions to the water quality objectives of the Basin Plan as part of that review process.

The petitioners' argument that TSD's local plant can achieve the water quality objectives set forth in Chapter 4 of the Plan ignores the fact that the Basin Plan explicitly concluded that a facility which treated to the higher level achieved by the T-TSA plant would be necessary to ensure compliance with the objectives. (See quotation from page I-5-11 of the Plan, set forth at page 11 above.) We assume that petitioners would dispute the conclusion contained in the Plan, and we think it appropriate that all of the evidence they have developed which is reasonably relevant to the issue of whether the conclusion is correct should be considered by the Regional Board. However, we find that the evidence should be considered initially in the context of a hearing for reconsideration of the Basin Plan. To do otherwise could result in a situation in which the Plan concludes that tertiary treatment is required, and yet the Board adopts requirements permitting use of

of a facility that achieves less than tertiary treatment. This conclusion is consistent with the recent Memorandum of Intended Decision in Alpine Springs County Water District v. State Water Resources Control Board and California Regional Water Quality Control Board, Lahontan Region (Superior Court of Placer County #51340).^{9/}

We have been informed that the Regional Board is in the process of reviewing the portion of the North Lahontan Basin Plan affecting the North Tahoe-Truckee River area.^{10/} We direct the Regional Board as a part of its review to give consideration to the data and analyses which were offered in evidence by petitioners at the Regional Board's September 1978 hearing. Of course, the Regional Board must also take the necessary steps to comply with the California Environmental Quality Act (CEQA) before amending the Basin Plan.

If the Regional Board finds as a part of its Basin Plan review based upon its analyses of petitioners' submittals as well as data gathered by the Regional Board staff that continued use of secondary treatment in the North Tahoe area can occur without jeopardizing the applicable ground and surface water quality objectives, the Board should amend its Plan to so indicate. As a part of its analysis, the Regional Board should consider, among other things, the following:

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9. A motion for reconsideration and vacation of the order is presently scheduled for hearing on August 13, 1979.
 10. Response on Behalf of the California Regional Water Quality Control Board, Lahontan Region; In the Matter of the Petition of Dart Resorts for Review of Lahontan Regional Water Quality Control Board Order No. 6-76-118 and the Petition of Truckee Sanitary District for Review of Lahontan Regional Water Quality Control Board Order No. 6-76-118, dated March 15, 1979, p. 36.

1. The water quality implications of any increased urban run-off that would be expected as a result of reopening the TSD plant as well as the local Alpine Springs and Squaw Valley plants, which are similarly situated.

2. The impacts of the anticipated increased urban run-off discussed under 1, above, in combination with discharges of domestic wastewater which is treated only to secondary, rather than tertiary, levels.

3. The water quality implications of a possible reversion by the T-TSA plant to secondary treatment levels should other dischargers in the area be permitted to use secondary treatment.

4. All of the above factors should be considered not only with respect to the current capacities of the various treatment plants but also taking into account projected growth in both urban run-off and domestic discharges for all of the North Tahoe agencies in the reasonable future.

5. The economic cost of continuing to require tertiary treatment in the North Tahoe area.

Even if the Regional Board finds that the objectives in its Plan can be met with less than tertiary treatment, such a finding may not necessarily obligate the Regional Board to issue requirements for use of TSD's local facility. Other matters that would have to be taken into consideration prior to issuance of such requirements include the following:

1. The State Board's Resolution No. 68-16 (The "Nondegradation Policy"); and

2. CEQA compliance by TSD.

4. Contention: Petitioner DART references State Board Order No. WQ 78-8 (Tahoe-Truckee Sanitation Agency, et al.), which is presently being challenged in litigation by Alpine Springs County Water District and Tahoe-Truckee Sanitation Agency. DART and TSD are participating in the suit by Alpine Springs as "friends of the court". This order

concluded, among other things, that the Regional Board prohibition on discharges from the Alpine Springs local facility was appropriate and that the Basin Plan clearly contemplated abandonment of the individual local treatment plants when the T-TSA plant became available. DART asserts that the Regional Board and State Board are not bound to reach the same conclusion relative to the present petition because, in the case of Alpine Springs, the State Board assumed that no issue of capacity was involved, i.e., it assumed that the T-TSA regional plant was "available to provide advance treatment for Alpine Springs wastes" whereas in reality the T-TSA plant can only treat a part of Alpine Springs' waste. Petitioner asserts that the State Board failed to decide the issue posed by a capacity limitation in assumed "implementation" of a Basin Plan which contained no recommendation whatsoever for capacity curtailment. DART requests the State Board to resolve this issue as part of the present petition.

Findings: Contrary to petitioners' contention, the capacity factor was not relevant to our conclusion in Order No. WQ 78-8 and does not affect our conclusions herein. First, as discussed above, it was not necessary for the Regional Board to consider the propriety of the prohibition as a means of implementing the Basin Plan prior to their adoption of an order correcting an administrative error. Second, the Basin Plan clearly concluded there was a need for tertiary treatment of sewage in the North Tahoe area at whatever capacity was ultimately decided upon by the local entities involved so long as it met or exceeded the projected flow levels set forth in Table 5-5 on page I-5-10 of the Plan.

5. Contention: Petitioner DART objected to comments by third parties at the State Board hearing on March 15, 1979, because they allege these statements raise assertions of fact and petitioners were denied the right to cross-examine these interested persons.

Findings: In addition to the oral comments by third parties at the State Board hearing, we have received several letters from interested persons expressing their concern with the proposed resumption of discharge from the TSD facility. To the extent that third party oral and written comments reference factual material not in the record such as the Endangered Species Act of 1973, they will be disregarded. However, we will consider all comments and opinions reasonably based upon evidence in the record to the same extent that the oral argument of the counsel for the major parties in this matter (the Regional Board, TSD and DART), which is also based upon the factual evidence in record, will be considered.

IV. CONCLUSIONS

After review of the record, we have reached the following conclusions:

1. Petitioners were not entitled to a hearing relative to the water quality merits of the prohibition prior to the adoption of a corrective order reinserting the prohibition on discharge from the TSD local facility, therefore there was no violation of their due process rights and no right to a hearing pursuant to Water Code Section 13263.

2. Water Code Section 13280 is not applicable to the Regional Board action on September 28, 1978.

3. The Regional Board's action in reserving consideration of the water quality evidence submitted by petitioners for review in connection with possible revision of its Basin Plan was appropriate.

4. The Regional Board must expeditiously take action to remedy any inconsistencies between its Basin Plan and the current waste discharge requirements for T-TSA.

5. As part of its present review of the North Lahontan Basin Plan relative to the North Tahoe-Truckee River area, the Regional Board is directed to give consideration to the data and analyses which were offered in evidence by petitioners at the Regional Board's September 1978 hearing. The Regional Board review and any necessary revisions to the Basin Plan are to be completed by December 21, 1979.

6. Whether or not the Basin Plan contains a recommendation for capacity curtailment is irrelevant to this decision.

7. Oral and written comments by interested persons to the extent they may reasonably be considered based upon evidence in the record have been considered as part of the record in this appeal.

V. ORDER

IT IS, THEREFORE, ORDERED that the petitions for revision of Regional Board Order No. 6-76-118 as amended by the Regional Board on September 28, 1978, prohibiting the discharge of waste from the TSD local facility as of January 1, 1978, are denied. The Regional Board is directed to consider the data and analyses which were offered in evidence by petitioners at the September 1978 hearing during its Basin Plan review process. This review and any necessary revisions to the Basin Plan are to be completed by December 21, 1979.

Dated: JUN 21 1979

/s/ W. Don Maughan
W. Don Maughan, Chairman

/s/ William J. Miller
William J. Miller, Vice Chairman

/s/ L. L. Mitchell
L. L. Mitchell, Member

/s/ Carla M. Bard
Carla M. Bard, Member

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