



On February 28, 1974, the Regional Board adopted Order No. 6-74-23 (NPDES Permit No. CA0102709) prescribing waste discharge requirements for the STPUD. On April 26, 1977, the Regional Board adopted Cease and Desist Order No. 6-77-51 for violations of effluent limitations for chemical oxygen demand (COD) and pH, receiving water pH and total ammonia provisions regarding pollution and nuisance and Water Quality Control Plan prohibitions of discharge to surface waters of the Basin. The Cease and Desist Order contained a prohibition of additional discharges to the sewer system. The Regional Board granted partial relief allowing a limited number of new connections on March 9, 1978 (Order No. 6-78-10) and June 8, 1978 (Order No. 6-78-43).

On December 7, 1978, the Regional Board adopted Order No. 6-78-79 amending Order No. 6-77-51. Order No. 6-78-79 grants partial relief from the prohibition of additional discharges by allowing 77,500 gallons additional flow to the STPUD sewer system.

## II. CONTENTIONS AND FINDINGS

1. Contention: Petitioners contend that the Regional Board acted improperly in not removing the prohibition of additional discharges to the sewer system.

Findings: Order No. 6-78-79 contains the following findings:

- "3. The South Tahoe Public Utility District has submitted a technical report on effective capacity of the District wastewater reclamation plant, demonstrating the plant can receive some additional discharges and continue to comply with existing effluent and receiving water limitations contained in the District's waste discharge requirements. The report sets the effective capacity at 7.0 mgd maximum day. The District proposes to issue not more than 77,500 gallons of capacity per year for new construction over the next seven years."
- "4. The South Tahoe Public Utility District has established a record of consistent compliance with effluent and receiving water limitations since January 1978. This record of consistent compliance was established after the District made extensive improvements to the wastewater reclamation plant and can only be maintained by an extraordinary operation and maintenance program."

The hearing record discloses that with the exception of a few receiving water total ammonia and pH violations, the STPUD achieved a record of 10 months of substantial compliance with waste discharge requirements which were the basis for adoption of Cease and Desist Order No. 6-77-51. The Regional Board, therefore, had discretion to remove the prohibition.

Section 2244.3(d), Subchapter 9.1, Chapter 3, Title 23, California Administrative Code provides that removals of prohibitions "may be total or by volume, type or concentrations of waste as improvements to the treatment and disposal facilities are placed in operation." The effect of this Section is to grant to the Regional Board discretion in the removal of the prohibition. The extent of removal depends upon the facts and circumstances of each case.

Following the imposition of the prohibition contained in Order No. 6-77-51, STPUD commenced and completed a program of interim treatment plant rehabilitation, modification and improvement. They also retained a panel of consultants to coordinate and evaluate treatment plant modifications. In October, 1978, the consulting panel submitted its final report entitled "Evaluation of Wastewater Treatment System, South Tahoe Public Utility District, South Lake Tahoe, California." STPUD's total expenditure for plant improvement and evaluation amounted to about \$700,000, a major expenditure which severely depleted their reserve funds.

It is apparent that operation of the plant and the quality of the effluent have improved due to the efforts of the STPUD. However, the panel also found certain limitations in the plant and recommended caution in certain areas: They found that reliability of the treatment plant is limited due to lack of standby units, standby power and deterioration of plant equipment; that substantial expenditures are necessary to purchase carbon, chlorine and other associated chemicals needed in the treatment process; that plant capacity should

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be set at 7.0 mgd; and that they "strongly recommend the District take a cautious approach and issue additional permits distributed equally over a period of not less than the next 5 years." The record discloses that the Regional Board was also concerned about the capacity of an emergency storage pond which is currently able to hold considerably less wastewater than required under state reclamation criteria. (Section 60341, Article 10, Chapter 4, Title 22, California Administrative Code.)

On October 19, 1978, the Board of Directors of the STPUD acted to allow connections to the sewer system for 1979 at 287 equivalent single family dwelling units, or 861 sewer units. The allowance by the Regional Board of 77,500 gpd additional flow is consistent with the STPUD Director's action and is a reasonable allowance in this case. The STPUD's 1979 allowance is based upon the presumption that seven years may be required to complete the plant modifications and expansion.

The Regional Board fully discussed and considered both full and partial removal of the prohibition. In view of the history disclosed in the record and the above-mentioned considerations, we find that the Regional Board's decision to exercise caution and grant only partial relief is reasonable and proper. Although the STPUD urged complete removal of the prohibition at the hearing, they realized the need for the gradual addition of discharges by virtue of their October 19, 1978, action to grant only limited connection permits. As requested by the STPUD, Order No. 6-78-79 also grants temporary relaxation of the COD standards.

2. Contention: Petitioner contends that the Regional Board acted improperly in allowing additional discharges only to those persons "for which building permits are issued on or after" the date of the order (December 7, 1978).

Findings: Order No. 6-78-79 allows limited additional discharges to the sewer system in the following manner:

"The South Tahoe Public Utility District may connect structures for which building permits are issued on or after December 7, 1978, provided that total sewer units for these structures do not exceed 77,500 gallons per day."

Petitioner argues that the qualification "for which permits are issued on or after December 7, 1978" goes beyond removal of a prohibition by "volume, type or concentration" and improperly specifies "manner of compliance" contrary to Section 13360 of the Water Code.

The record discloses that the "after December 7, 1978" qualification was included in the prohibition because persons issued building permits prior to December 7th already had the right to discharge to the sewer system by virtue of previous Regional Board orders. However, it is possible that under complex local permitting procedures situations may arise that do not clearly fit into one category or the other. This may create confusion and impose hardship on individuals. Consequently, we find that the prohibition should not be qualified and should simply allow additional discharges from sewer units not to exceed 77,500 gallons per day. We find it unnecessary to reach the issue of whether or not the provision is contrary to Section 13360 of the Water Code.

Order #2 of Order No. 6-78-79 should be amended to read  
as follows:

"In addition to the discharges to the sewer system excluded in paragraph #1 above, the South Tahoe Public Utility District may allow additional waste discharges to the sewer system not to exceed 77,500 gallons per day."

III. ORDER

IT IS, THEREFORE, ORDERED that:

1. Partial removal of the prohibition of additional discharges to the sewer system by the Regional Board is appropriate and proper.
2. Order #2 of Regional Board Order No. 6-78-79 is amended as set forth above.
3. In all other respects the petitions are dismissed.

Dated: JUL 19 1979

ABSENT

W. Don Maughan, Chairman

ABSTAINED

William J. Miller, Vice Chairman

L. L. Mitchell

L. L. Mitchell, Member

Carla M. Bard  
Carla M. Bard, Member