

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition )  
of Marina County Water District )  
for a Stay and Review of Failure )  
to Act by the California )  
Regional Water Quality Control )  
Board, Central Coast Region. )  
Our File No. A-235(b). )

Order No. WQ 79-31

BY THE BOARD:

On April 20, 1979, the Marina County Water District (Marina) requested the California Regional Water Quality Control Board, Central Coast Region (Regional Board) to consider amending the Water Quality Control Plan, Central Coast Region (Basin Plan) to delete the prohibition of discharges to the southern extreme of Monterey Bay. On June 18, 1979, the Regional Board held a preliminary public hearing to determine whether there was sufficient evidence and cause to warrant further review and consideration of modification of the prohibition area. At the conclusion of that hearing, the Regional Board adopted Resolution No. 79-06 concluding that amendment of the Basin Plan with respect to the southern Monterey Bay discharge prohibition zone is unwarranted.

On July 18, 1979, the State Board received a petition from Marina seeking review of the Regional Board's determination not to revise the prohibition zone provision of the Basin Plan.

Pending State Board review of this issue, Marina requested a stay of its NPDES permit (Order No. CA0047988) and Cease and

Desist Order No. 79-07, both of which implement the prohibition contained in the Basin Plan.

## I. CONTENTIONS AND FINDINGS

1. Contention: Marina seeks review of the Regional Board's determination that revision of the Basin Plan to delete the prohibition on discharge to the southern extreme of Monterey Bay is unwarranted.

Finding: Failure to act to revise a basin plan is not one of the Regional Board actions specifically reviewable by the State Board after a petition by an aggrieved person. (California Water Code Section 13320(a).) However, the State Board may, on its own motion, review any failure to act in revising a basin plan.

A basin plan, or revision thereof, is not effective unless and until it is approved by the State Board. (California Water Code Section 13245.) Since a failure to revise a basin plan can have as much of an effect on an aggrieved person as an actual adoption of or revision to a basin plan, we feel it is appropriate for us to review on our own motion the Regional Board's determination that there was insufficient evidence to warrant consideration of modification of the discharge prohibition into the southern extreme of Monterey Bay which is contained in the Basin Plan. Our conclusion in this regard is also based in part on our review of the minutes of the Regional Board hearing on June 18, 1979. There appears to be sufficient controversy as to the value of the new evidence on the technical propriety of the discharge prohibition to warrant our review. Because of the importance of this issue to the future of waste disposal in the area, one or more members of the State Board will hold a hearing on this matter prior to our determination of the propriety of the Regional Board's action.

2. Contention: Marina requests a stay of its NPDES permit and Cease and Desist Order No. 79-07 pending the review which is subject of this petition.

Finding: The petition does not allege facts and proof to show substantial harm to Marina or the public interest if the stay is not granted nor lack of substantial harm to other interested persons and the public interest if a stay is granted. Therefore, we do not find grounds for a stay in this matter.

## II. ORDER

IT IS HEREBY ORDERED that:

1. We will review on our own motion whether there was sufficient evidence and cause to warrant further review and consideration of modification of the prohibition area. Part of this review will include a hearing on this matter by one or more State Board members.

2. The request for a stay is denied.

Dated: SEP 20 1979

/s/ Carla M. Bard  
Carla M. Bard, Chairwoman

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

/s/ W. Don Maughan  
W. Don Maughan, Member

ABSENT  
L. L. Mitchell, Member

