Water Act designates a particular public entity to operate facilities and an NPDES permit is required. Then, to issue a permit for the discharge to another agency would be inconsistent with the Section 208 plan and proscribed by Section 208(e) of the Clean Water Act. Section 208(e) states "No permit under Section 402 of this Act shall be issued for any point source which is in conflict with a plan approved pursuant to subsection (b) of this section." No evidence was presented to indicate that a change in public entity was required by an approved Section 208 plan, nor did the Regional Board so argue.

6/ See Water Code Sections 13225, 13267, and 13268; also 40 Code of Federal Regulations Sections 122.14(g), and 122.20 et seq. A change of public entity could constitute cause for modification or revocation and reissuance of a permit. [40 CFR 122.14(e)]

Boards, dischargers and other public agencies, and since directing a change in the public agency controlling a discharge would not be permitted under Water Code Section 13360 in this case, Paragraph H should be deleted from Order No. 79-147.

IV. CONCLUSION

After review of the record, and for the reasons expressed above, we conclude that Paragraph H should not have been included in Order No. 79-147.

V. ORDER

IT IS HEREBY ORDERED that Paragraph H of Order No. 79-147 of the San Francisco Bay Regional Water Quality Control Board is rescinded.

Dated: March 20, 1980

ABSENT
Carla M. Bard, Chairwoman

ABSENT
William J. Miller, Vice Chairman

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

/s/ Jill B. Dunlap
Jill B. Dunlap, Member

/s/ F. K. Aljibury
F. K. Aljibury, Member