

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition
of the City of Fort Bragg for
Review of Order No. 74-52,
California Regional Water
Quality Control Board, North
Coast Region.

Order No. WQ 74-23

BY THE BOARD:

On March 27, 1974, the California Regional Water Quality Control Board, North Coast Region (Regional Board), adopted Order No. 74-52 prescribing a National Pollutant Discharge Elimination System permit (NPDES No. CA 0023078) for the City of Fort Bragg Municipal Improvement District No. 1.

On April 25, 1974, the City of Fort Bragg (petitioner) filed a petition with the State Water Resources Control Board (State Board) requesting review of Order No. 74-52 and specifically requesting that the State Board set a date for hearing in this matter. On June 19, 1974, the State Board informed the petitioner that a hearing would not be held and that the matter would be decided on the record. The petitioner was given 20 days for additional arguments and comments, and arguments and comments were submitted by a letter dated July 3, 1974.

Petitioner advances six specific contentions in support of its petition, all of which are considered hereafter in detail. After review of the record and petitioner's contentions, we have determined that the action of the Regional Board was appropriate and proper.

CONTENTIONS AND FINDINGS

The specific contentions of the petitioners and our findings relative thereto are as follows:

Contention

The order requires substantial expenditures and the Regional Board did not properly consider the economic and financial consequences of its action. Adoption of the order should be delayed until grant funding is assured.

Finding

Provision 3 of Order No. 74-52 established a time schedule to assure compliance with the effluent limitations of Order No. 74-52. Full compliance with requirements must be achieved by July 1, 1977. Compliance with requirements will undoubtedly entail substantial expenditures by the petitioner. The record indicates, however, that the requirements established by Order No. 74-52 are necessary and appropriate for protection of water quality. The fact that substantial expenditures will be entailed is no reason for failure to set appropriate and necessary waste discharge requirements.

Regarding the allegation of failure of the Regional Board to consider the economic consequences to petitioner in adoption of the order, relevant economic factors were considered in the adoption of the water quality control plan for the North Coastal Basin as required by Water Code Section 13241. Order

No. 74-52 was adopted to implement said plan and applicable water quality objectives, and to protect reasonably beneficial uses of waters of the State. In addition, review of the hearing record shows that economic considerations were placed before the Regional Board and that it was clear that the cost to petitioners in complying with the proposed order would be substantial. It is obvious that the Regional Board did in fact consider the economic implications involved prior to the adoption of the order.

We do not concur with petitioner's contention that appropriate waste discharge requirements for municipalities must necessarily await availability of federal and state grant funds. While efforts are made to coordinate all aspects of the water quality program in California, there can be no guarantee that water quality requirements will, in all cases, coincide with the availability of grant funds. In this particular case, we will note that the petitioner has submitted an application for grant funds for a project involving upgrading of its existing wastewater treatment plant, extension of its ocean outfall and separation of the combined sewers in its northern area, and that this project has been placed in a fundable priority category for fiscal year 1973-74, thus providing a high probability of grant funding for petitioner.

Contention

As the sewage collection system of petitioner is, in part, a combined storm and sanitary sewer system, special consideration should have been given in determining the percentage removal of influent BOD and suspended solids.

Finding

Effluent limitation A-3 of Order No. 74-52 provides that the 30-day average effluent concentration shall not exceed more than 15 percent of the 30-day average influent concentration of BOD and suspended solids (85 percent removal). This meets the secondary treatment requirements of federal law.

(40 CFR 133.102(a)&(b).) However, it is recognized that it may not be possible to meet secondary treatment requirements during wet weather in treatment works which receive flows from combined sewers. Such treatment works, must be examined on a case-by-case basis. (40 CFR 133.03(a).)

Upon examination of the records of the Regional Board and arguments submitted by the petitioner, we find that this portion of the order is proper. The order provides that the 85 percent removal requirement need not be complied with until July 1, 1977, at which time petitioner must have its bypass of untreated waste eliminated. Since petitioner plans to correct its bypass of untreated waste by separating its storm and sanitary sewers, no relaxation of the 85 percent removal requirement appears appropriate.

In the event that the sewer separation project cannot be completed by July 1, 1977, there undoubtedly will be difficulty on the part of the petitioner in meeting the 85 percent removal requirement of Order No. 74-52. In such event, assuming that any delay is not the fault of the petitioner, the Regional Board will undoubtedly reevaluate the requirements involved to determine what acceptable percentage removal level can and should be attained pending completion of the proposed separation project.

Contention

The Regional Board disregarded existing commitments between petitioner and the State Board by which petitioner had been given until 1985 to complete a sewer separation project.

Finding

Effluent limitation A-4 provides that by July 1, 1977, the "bypassing of untreated waste from collection or treatment facilities is prohibited". It should be noted that this prohibition does not necessarily mandate a sewer separation project. Other alternatives such as providing sufficient storage capacity for the excess winter flow could eliminate the need to bypass untreated waste.

The 1985 date alluded to by petitioner was a condition contained in a grant contract for a 1970 project of petitioner. The purpose of the condition was to assure that petitioner would

provide for sewer separation at a future date, not later than 1985. While correspondence related to the grant indicated that petitioner would be allowed until 1985 to complete the sewer separation project, relevant correspondence specifically indicated that the petitioner would have to comply with applicable requirements that might in the future be imposed by appropriate regulatory agencies. Federal regulations require secondary-treated effluent for discharge into navigable waters by July 1, 1977, and the Water Quality Control Plan for Ocean Waters of California (Ocean Plan), Section V-D, prohibits the bypassing of untreated waste to ocean waters. Therefore, we find that petitioner's contention is without merit.

Contention

It is unreasonable to apply Ocean Plan requirements regarding outfalls and diffusion systems to secondary-treated effluent.

Finding

This contention is directed primarily to the Ocean Plan rather than to the requirements of Order No. 74-52. In Order No. 72-24 we considered the Ocean Plan at the request of various public entities (petitioner was not among these entities). After considering the numerous contentions, Order No. 72-24 found that the requirements of the Ocean Plan are reasonably necessary to protect the beneficial uses of

waters of the State. The Ocean Plan was adopted after public hearings, noticed on a state-wide basis, were widely attended and the information developed as a result of the hearings was both voluminous and enlightening.

We find that the dilution requirement of Order No. 74-52 properly implements Section C of Chapter III of the Ocean Plan. The order requires initial dilution exceeding 50:1 at least 50 percent of the time and exceeding 40:1 at least 90 percent of the time. These parameters recognize the higher treatment level to be achieved by petitioner and the circumstances in the outfall area. It should be noted that the present ocean outfall does not extend beyond the intertidal zone and becomes exposed during periods of low tides thus resulting in very poor mixing of effluent with ocean water, necessitating a liberal dilution requirement.

Contention

Mass emission rates should allow for peak flows which occur daily, monthly and annually, and mass emission rate limitations should be applied only in cases where it has been demonstrated that water quality standards cannot be maintained in the receiving water with secondary-treated effluent.

Finding

Effluent limitations in A-1 of Order No. 74-52 prescribe maximum mass emission rates in pounds per day for BOD and

suspended solids. These rates are specified for the 30-day average, 7-day average and maximum value. These mass emission rate limitations were based on a design flow of 1.0 mgd which is the flow stated in petitioner's report of waste discharge. Mass emission limitations are required under 40 CFR 124.43 which provides that any state participating in the NPDES program shall specify average and maximum daily quantitative limitations in permits for the level of pollutants in the discharge in terms of weight.

Contention

The discussion of this order in the Regional Board workshop (on March 26, 1974) to which petitioner was not invited was prejudicial to petitioner.

Finding

All meetings of the Regional Board are open to the public. This includes Board workshops held the evening prior to formal meetings as well as the formal meetings held the next day. The tentative meeting agenda which was transmitted to petitioner several weeks prior to March 26 noticed the time and place of the workshop and specified that "informational discussion of agenda items" would take place. Agenda Item No. 9 was waste discharge requirements for the City of Fort Bragg.

There was certainly no intent to exclude petitioner's representatives from the March 26 workshop. In fact, it is

common practice for dischargers to attend Board workshops the evening before the formal Board meeting. We find no merit to this contention.

CONCLUSIONS AND ORDER

Having considered the contentions of the petitioner and the record before us, we conclude that the action of the Regional Board in adopting Order No. 72-54 was appropriate and proper.

IT IS HEREBY ORDERED that the petition of the City of Fort Bragg be denied.

Dated: November 21, 1974

W. W. Adams
W. W. Adams, Chairman

Ronald B. Robie
Ronald B. Robie, Vice Chairman

Roy E. Dodson
Roy E. Dodson, Member

Mrs. Carl H. Auer
Mrs. Carl H. (Jean) Auer, Member

W. Don Maughan
W. Don Maughan, Member