CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

**CEASE AND DESIST ORDER NO. 93-164**

REQUIRING THE SANTA CLARA VALLEY WATER DISTRICT, COUNTY OF SANTA CLARA, CITY OF CAMPBELL, CITY OF CUPERTINO, CITY OF LOS ALTOS, TOWN OF LOS ALTOS HILLS, TOWN OF LOS GATOS, CITY OF MILPITAS, CITY OF MONTE SERENO, CITY OF MOUNTAIN VIEW, CITY OF PALO ALTO, CITY OF SAN JOSE, CITY OF SANTA CLARA, CITY OF SARATOGA, AND CITY OF SUNNYVALE, which have joined together to form the SANTA CLARA VALLEY NONPOINT SOURCE DISCHARGERS (hereinafter called Dischargers) TO CEASE AND DESIST DISCHARGING WASTE CONTRARY TO WASTE DISCHARGE REQUIREMENTS IN ORDER NO. 90-094 (NPDES PERMIT NO. CA0029718)

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter called the Board) finds that:

1. On February 1, 1989, pursuant to Section 304(l) of the Clean Water Act, as amended by the Water Quality Act of 1987, the State Water Resources Control Board included South San Francisco Bay, below the Dumbarton Bridge (South Bay), on the 304(l)(1)(B) list of impaired waters for the pollutants cadmium, chromium, copper, lead, mercury, nickel, silver, selenium, and zinc (304(l) metals) and included the Dischargers on the 304(l)(1)(C) list of point sources discharging the listed pollutants.

2. On June 20, 1990, the Board adopted Order No. 90-094 (NPDES No. CA0029718) which prescribed Waste Discharge Requirements (WDRs) for the Dischargers which serves as an Individual Control Strategy required by Section 304(l) for point sources on the 304(l)(1)(C) list. The Order and Individual Control Strategy required implementation of control measures to reduce pollutants in storm water discharges to the maximum extent practicable and to reduce the discharge of 304(l) metals sufficient to achieve applicable water quality standards no later than June 20, 1993.

3. The Board has reviewed reports submitted by the Dischargers between June 1990 and September 1993 and Regional Monitoring Program data and finds that the Dischargers have made progress in reducing the discharge of pollutants, including the 304(l) metals, but South Bay remains impaired and applicable water quality standards have not been achieved.

4. The Board adopted Resolution 93-61 to amend its Water Quality Control Plan for the San Francisco Bay Region (Basin Plan) June 16, 1993 to adopt a wasteload allocation for copper which requires a minimum of 20% reduction in average annual copper mass loading by the Dischargers by 1998. The Dischargers and the three Publicly Owned Treatment Works which discharge to South Bay are also

required to demonstrate an additional reduction of 950 pounds per year by 1998. The State Water Resource Control Board has not approved the Basin Plan Amendment.

5. Section 13301 of the California Water Code authorizes the Board to issue a Cease and Desist Order when it finds that a discharge of waste is taking place or threatening to take place in violation of requirements prescribed by the Board.

6. This action is an order to enforce waste discharge requirements adopted by the Board and is categorically exempt from CEQA pursuant to section 15321 of the Resources Agency Guidelines.

7. The Dischargers and interested persons have been notified the Board's intend to adopt the enforcement order, and have been provided with the opportunity for a public hearing and the opportunity to submit their written views and recommendations. The Board, in a public meeting, heard and considered all comments pertaining to this Order.

**IT IS HEREBY ORDERED THAT,** the Dischargers shall cease and desist from violating Waste Discharge Requirements contained in Order No. 90-094 as follows:

A. The Dischargers shall submit to the Board by February 1, 1994 and June 1, 1994 a progress report on the development of and by October 1, 1994 a final plan acceptable to the Executive Officer which identifies control measures for the 304(l) metals and assigns responsibilities and time schedules for implementation of the control measures.

B. The Dischargers shall submit to the Board by February 1, 1994 and June 1, 1994 a progress report on the development of and by October 1, 1994 a final plan acceptable to the Executive Officer designed to reduce annual copper mass loads in their discharges which will attain applicable water quality standards. The plan shall include control measures for copper identified in accordance with Paragraph A. of this Order and additional control measures to be implemented in conjunction with the three Publicly Owned Treatment Works which discharge to South Bay.

C. The Dischargers shall submit to the Board by February 1, 1994 a plan acceptable to the Executive Officer for conducting an annual evaluation of their progress towards implementing control measures and an evaluation of the effectiveness of the control measures in reducing pollutants in storm water discharges to the maximum extent practicable and in reducing impairment of receiving waters and achieving applicable water quality objectives. Measures of effectiveness may include, but are not limited to, quantitative water quality monitoring, detailed accounting of actions and accomplishment, funds expended, and staff hours utilized. The plan shall include a qualitative field level assessment of the Dischargers' activities in addition to the office level interview/audit process conducted in conjunction with preparation of the Dischargers' FY 1993-94 Annual Report. Results of the evaluation shall be included in the Annual Report due

September 1 of each year.

D. The Dischargers shall submit to the Board by April 1, 1994 a progress report on the development of and by October 1, 1994 a revised Storm Water Management Program Plan acceptable to the Executive Officer. Where applicable, the Plan shall focus and provide for coordination of actions and control measures on a watershed basis.

1. The Plan shall assign responsibility and time schedules to the Dischargers for implementation of the following:

   a. all existing plans, actions, and control measures in the Storm Water Management Plan dated January 1991 and any proposed changes, modifications, or improvements contained in the Dischargers Annual Reports;

   b. control measures identified as part of the Source Control Program;

   c. control measures identified as part of the Toxicity Control Program;

   d. control measures for the 304(l) metals identified in accordance with Paragraph A. of this Order; and

   e. other changes, modifications, or improvements to the existing Plan and other actions or control measures identified by the Executive Officer as a result of the review of the Dischargers' FY 1992-93 Annual Report.

2. The revised Storm Water Management Program Plan shall address the NPDES permit application requirements for municipal storm water discharges at 40 CFR Part 122.26(d) and assign responsibility and time schedules for implementation of actions and control measures in the following areas:

   a. Institutional arrangements Roles and responsibilities of each of the Dischargers including roles and responsibilities of specific agencies or departments within each municipality, and where appropriate, the roles of other agencies, including Publicly Owned Treatment Works and flood control agencies, whose services and/or cooperation are necessary for implementation and enforcement of the Plan shall be addressed. Inter-agency and intra-agency agreements shall be identified, and if necessary, time schedules for completion shall be proposed.

   b. Legal authority A demonstration that each Discharger has adequate legal authority for implementing and enforcing its responsibilities in the Plan or a proposed schedule for obtaining such authority shall be provided where existing legal authority is found to be deficient..

   c. Public information and participation This program element shall be integrated with all other program elements. Training of municipal employees shall be included in addition to addressing the general public and

commercial and industrial entities. Active public participation in the Plan shall be provided including a coordinated volunteer monitoring program.

d. Elimination of illegal discharges Completion of the program to identify illicit connections shall be demonstrated or a time schedule for completion shall be provided. An ongoing field surveillance program to identify and prevent illegal dumping; procedures to prevent, contain, and respond to spills; and a program to promote, publicize, and facilitate public reporting of illegal discharges shall also be addressed.

e. Industrial and commercial sources A revised list of significant industrial or commercial sources and a proposed schedule for conducting outreach efforts, site visits, and inspections of these sources shall be established.

f. New Development and redevelopment A description of planning procedures including a comprehensive master plan to develop, implement, and enforce controls to reduce pollutants from storm water discharges from areas of new development and significant redevelopment both during construction and after construction is completed shall be provided. These procedures should be coordinated with and shall be consistent with those being developed by the Bay Area Stormwater Management Agencies Association's New Development Subcommittee. Demonstration of implementation of the immediate action items identified by the Subcommittee shall be provided. A program for inspection of sites both during construction and after construction is completed shall be established.

g. Public agency activities Actions, operations, and facilities of public agencies conducted or owned by the Dischargers shall be addressed including: improved street sweeping; operation and maintenance of storm drain systems and structural controls; operation and maintenance of municipal corporation yards, including establishing Storm Water Pollution Prevention Plans for these facilities; operation and maintenance of roadways; siting, construction, and operation and maintenance of new and existing flood control projects; application of pesticides, herbicides, and fertilizers; and operation and maintenance of other public facilities such as parks, golf courses, and parking facilities.

I, Steven R. Ritchie, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on December 15, 1993.

Steven R. Ritchie
Executive Office

Date: 12/15/93