

A COMPILATION OF STORMWATER AND OTHER RELATED WATER NEWS

By S. Wayne Rosenbaum & Aiko Osugi, Foley & Lardner LLP

NATIONAL NEWS

Daily Allocations for TMDLs – EPA Issues Clarification

(Water Quality News Flash) December 18, 2006 – Total maximum daily loads (TMDLs) allocate “safe” or acceptable amounts of pollutant to those discharging wastewater, including storm water, to pollutant impaired (303 (d) listed) waters. Earlier this year, a Federal Appeals Court determined that “daily” in TMDL means “every day.” This decision created a potential obstacle to the program since some TMDLs have allocations set on longer intervals including annually or even 5-year running averages. A daily allocation often would not be practical, especially for intermittent discharges such as storm water.

EPA has now released a memo to resolve the issue. EPA states that all TMDLs need daily limits, but should be flexible in how these limits are implemented. EPA has also concluded that changes are not needed in existing policy and guidance. In related news, EPA argued that the appeals court decision should not be reviewed by the U.S. Supreme Court. The Washington DC Water and Sewer Authority is seeking a review of the decision which they view as placing an unnecessary burden on wastewater utilities. EPA reportedly believes it can work around the appeals court decision and is concerned that Supreme Court involvement might result in a major overhaul of the TMDL program. EPA:

<http://www.epa.gov/owow/tmdl/dailyloadsguidance.html>

GOP Misses Chance to Reshape Environmental Laws

(Calcoast Update) December 22, 2006 – If ever there was a Congress in which Republicans were positioned to remake the nation's environmental laws, it was the 109th. But by the time the session ended last week, the GOP's environmental agenda had been largely thwarted.

<http://www.calcoast.org/news/cpr0061215.html>

Role Model - Boxer to Call State Leaders to Testify on Warming Law

(San Francisco Chronicle) Sen. Barbara Boxer, the soon-to-be chairwoman of the Senate Environment and Public Works Committee, said Tuesday she will ask Gov. Arnold Schwarzenegger and two Democratic state lawmakers to testify about why

For more information on the matters discussed in this issue of the *Stormwater News* please contact the following Foley & Lardner LLP professional, or the member of the firm who normally handles your legal matters.

■ **S. Wayne Rosenbaum**
Foley & Lardner LLP
402 West Broadway
Suite 2300
San Diego, CA 92101
Phone: 619.685.6413
Fax: 619.234.3510
srosenbaum@foley.com

■ **Aiko Osugi**
Foley & Lardner LLP
402 West Broadway
Suite 2300
San Diego, CA 92101
Phone: 619.685.4622
Fax: 619.234.3510
aosugi@foley.com

To learn more about how Foley can help your company visit our website at Foley.com.

To receive other e-mail newsletters like this one that cover topics that are important to you and your business, please join the [Foley & Lardner newsletter distribution list](#).

Congress should pass federal legislation modeled on California's landmark law to combat global warming.

<http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2006/12/06/MNGORMQ5K91.DTL&type=politics>

Revisiting *Miccosukee*: Court Rules NPDES Permits Required for Water Transfers

(Marten Law Group) December 20, 2006 – Last week, in a Clean Water Act case with national implications, a federal district court judge in Florida rejected EPA's Proposed Water Transfer Rule exempting such transfers from the NPDES program. The court held in *Friends of the Everglades v. South Florida Water Management District* ("*Miccosukee II*") that the South Florida Water Management District ("SFWMD") must obtain a National Pollution Discharge Elimination System ("NPDES") permit in order to continue "back-pumping" water from canals into Lake Okeechobee for flood control and water supply augmentation. [Full Article](#)

Supreme Court Considering Whether to Review TMDL Case Imposing Daily Discharge Limits

(Marten Law Group) December 20, 2006 – The Environmental Protection Agency ("EPA") and Friends of the Earth have filed separate briefs opposing a petition for certiorari to the U.S. Supreme Court of a controversial D.C. Circuit Court decision requiring EPA to set Clean Water Act ("CWA") total pollutant discharge limits for impaired waterways on a *daily*, rather than seasonal or annual, basis. EPA urged the Supreme Court to decline review in light of the decision's limited geographic scope (the District of Columbia) and EPA's newly issued policy guidance addressing TMDLs. [Full Article](#)

Lawsuit Filed to Protect Sea Lion Habitat

(Calcoast Update) December 22, 2006 – The Center for Biological Diversity filed a lawsuit in federal district court in Washington, D.C., challenging the Bush administration's refusal to designate critical habitat for Sea Otters in Alaska.

A copy of the complaint and more information on the sea otter is available on the Center for Biological Diversity's web site at www.biologicaldiversity.org/swcbd/species/otter/.

Lawmaker Says He Doesn't See Major Changes for Endangered Species Act

(Calcoast Update) December 22, 2006, WASHINGTON — "It's not my plan to engage in any wholesale renovation or reformulation of the ESA," Rep. Nick Rahall, D-W.Va., said Friday. "I don't envision that major effort will be made in the next Congress." <http://www.calcoast.org/news/cpr.htm>

RECLAIM AND DESAL

Orange County Desal Lawsuit Thrown Out – Activists Alleged that City's Approval of Poseidon Resources Project Was Improper

(OC Register) [An Orange County judge has tossed out a lawsuit by environmental activists against the city of Huntington Beach, alleging its approval of a proposed \\$250 million desalination plant was improper. Superior Court Judge David C. Velasquez](#)

[ruled Monday that the city had conducted a proper review of the potential environmental effects of a proposal by Poseidon, Inc., to build a seawater desalination plant that would produce as much as 50 million gallons of drinking-water per day.](#)

Long Beach Desal Patent Approved After Four Years – 'Long Beach Method' Offers Two-Step Filtration Process

(Long Beach Press) [The city's desalination process, developed by engineers at the Water Department, received a patent number on Wednesday from the U.S. Patent and Trademark Office. The news came sooner than expected and more than four years after the department filed for a patent, which protects the technology from unlicensed users.](#)

CALIFORNIA NEWS

303(d) List – 2006 List Partially Approved; Data Requested for 2008 List

(Water Quality News Flash) December 18, 2006 – The 2006 303(d) list of polluted waterways was adopted by the State Board this past October and has now been partially approved by U.S. EPA. TMDLs must be prepared for the waters and pollutants on the list (except for waterway segments already being addressed). EPA approved all the listings except for Walnut Creek Wash toxicity, which they are still evaluating. EPA also continues to evaluate the State's de-listings. In the past, EPA has added waterway/pollutant combinations to the list and may do so again. The 2002 list is no longer in effect. 2006 list:

http://www.swrcb.ca.gov/tmdl/303d_lists2006.html

The State Board has now requested data for evaluation for the 2008 list. This data should be submitted to the Regional Boards rather than to the State Board and is due by February 28, 2007. The Boards are requesting not only data showing that standards are not met, but also data showing attainment of standards. All the data will be used in compiling a statewide water quality assessment. Posted: <http://www.waterboards.ca.gov/tmdl/integrated2008.html>

Governor Schwarzenegger Announces Regional Water Quality Control Board Appointments

(December 21, 2006) Governor Arnold Schwarzenegger today announced the following appointments:

Fred Ameri, 66, of Newport Beach, has been appointed to the Santa Ana Regional Water Quality Control Board. He was first appointed to the Board in 1999 and has served as senior vice president for the planning and civil engineering consulting firm RBF Consulting since 1968. Ameri serves on the Board of Directors for the American Red Cross Orange County Chapter and Board of Governors for the California Wetlands Recovery Project. He is also a member of the Governmental Affairs Committee for the Building Industry Association and Orange County Transportation Authority Advisory Committee, and is past chair and member of the World Affairs Council of Orange County. This position requires Senate confirmation and the compensation is \$100 per diem. Ameri is a Republican.

David King, 36, of San Diego, has been appointed to the San Diego Regional Water Quality Control Board. Since 2004, he has owned the Law Office of David King where he serves as corporate counsel to local San Diego businesses. From 2002 to 2004,

King was a deputy city attorney for the San Diego City Attorney's Office. Previously, he was an associate for the law firms Wilson, Sonsini, Goodrich and Roasti from 1999 to 2001 and Sidley, Austin, Brown and Wood from 1996 to 1999. This position requires Senate confirmation and the compensation is \$100 per diem. King is a Republican.

Terry Young, Ph.D., 55, of Oakland, has been appointed to the San Francisco Bay Regional Water Quality Control Board. She has been an environmental science consultant since 1983, with her primary client being the national nonprofit organization Environmental Defense. Young previously was acting executive director for the Aquatic Habitat Institute from 1985 to 1986 and a research assistant for the department of plant and soil biology at the University of California, Berkeley from 1976 to 1983. Prior to that, she was a lecturer in the department of conservation and resources studies at the University of California, Berkeley from 1978 to 1979 and worked for the Office of Toxic Substances in the U.S. Environmental Protection Agency from 1973 to 1976. This position requires Senate confirmation and the compensation is \$100 per diem. Young is a Democrat.

Six Names Are Put in Coastal Panel's Hat

(Calcoast Update) December 22, 2006 – Six city council members in the county have been nominated to replace former Chula Vista Mayor Steve Padilla on the California Coastal Commission. <http://www.calcoast.org/news/coast.htm>

Congress OKs Bill to Speed Lining of All-American Canal

(Calcoast Update) December 22, 2006 – A long-planned water conservation project in Imperial County that would boost San Diego County's future supply but decrease that of Mexicali farmers has been ordered completed "without delay" by Congress. <http://www.calcoast.org/news/waterq.htm>

Water War Along Mexico-California Border Sparked by Proposed Improvements to Canal

(Calcoast Update) December 22, 2006, SAN FRANCISCO — Government lawyers are urging a federal appeals court to allow a section of a canal separating California and Mexico to be lined with cement to stop millions of gallons of water from seeping south of the border each year. <http://www.calcoast.org/news/waterq.htm>

Watershed moment? – Water quality boards a test of governor's 'green' image

(San Diego Union-Tribune) [Arnold Schwarzenegger's self-styled reputation as a "green" governor is under scrutiny again as he selects leaders for water quality agencies statewide. The appointees are virtually invisible to most people, but the panels they serve on are battlegrounds for regulations, penalties and permits that affect California's waterways.](#)

Big Storm Could Fizzle into Drizzle

(Calcoast Update) December 22, 2006 – The larger question is whether a wet El Niño winter is in store. Experts' opinions vary. <http://www.calcoast.org/news/coast.htm>

Emerging Issue – Pharmaceuticals and Personal Care Products in the Environment

Detection of pharmaceuticals and personal care products in the environment is an issue of emerging concern across the nation and around the world. It's a complex issue that is compounded by the fact that there are very diverse sources for these chemicals. We use pharmaceuticals every day in so many ways...from prescription and over-the-counter drugs to diagnostic agents, nutritional supplements, and other consumer products such as fragrances, cosmetics, and sun-screen agents. We swallow them, rub them on our skin, have them injected or administer them to our pets. And finally, many of these chemicals are ending up in the environment from various routes, including sewage and from past and present disposal practices.

So why is this a problem? The U.S. Geological Survey has reported that pharmaceutical wastes (such as prescription and nonprescription drugs, antibiotics, and hormones) have been detected in water samples downstream from urban areas and livestock holding areas. This is a concern for several reasons. One is the potential risk to fish and other aquatic organisms from continual exposure to low concentrations of these chemicals. Another concern is the potential impact on human health from consumption of water containing trace concentrations of these compounds. Right now there are many unknowns regarding the impacts of these chemicals at the concentrations detected.

DTSC intends to explore the many levels of this very complex problem...from potential environmental and human health impacts...to pollution prevention and disposal considerations...to how to regulate and oversee management of these wastes. And we invite you to join us in this effort. For more information on Pharmaceutical Waste and DTSC's activities in this area, please visit the DTSC website at <http://www.dtsc.ca.gov/HazardousWaste/Pharmaceutical.cfm>.

DTSC is planning to hold a full-day Pharmaceuticals and Personal Care Products (PPCPs) Symposium in June 2007 at the Cal/EPA building in Sacramento. Please check the DTSC Pharmaceutical Waste webpage in the coming months for more information.

California Needs Plan for Spending Flood Money, Official Says

(CBIA News Summary) December 13 2006 – California should create a long-term plan to spend the nearly \$5 billion in flood-control bonds approved in November so it doesn't squander the money, Department of Water Resources Director Lester Snow said Tuesday. "The point is, we can waste this money," Snow said during the first in a series of meetings designed to determine how best to spend the voter-approved windfall. "We need to implement programs right now, but we need to be mindful of developing a long-term plan." The money comes from two water bonds on the Nov. 7 ballot. Proposition 1E was sponsored by the Legislature and governor and is intended to strengthen the state's fragile levee system. Proposition 84 was a water bond promoted by conservation groups that will provide \$800 million for flood control, along with billions more for programs to improve water quality. In writing Proposition 1E, lawmakers gave very little direction on when and how the \$4.1 billion levee bond should be spent, according to an examination last summer by The Associated Press. That could lead to a politicized atmosphere in which lawmakers seek money for projects in their own districts, regardless of need. Housing developers also

might profit by selling land to the state – paid through bond money – in return for not building in floodplains.

http://www.modbee.com/state_wire/story/13105812p-13755143c.html

Environmental Justice Land-Use Rules Proposed for Sacramento

(Monday Morning Report) December 18, 2006 – The Sacramento Air Quality Management District (SAQMD) will be the first local jurisdiction in the state to move forward with plans to implement a state-backed land-use and development protocol – designed to promote "environmental justice" – which will mean, for example, no new housing within 500 feet of major roadways. The proposed action by the SAQMD, stems from an environmental justice handbook published in April of 2005 by the California Air Resources Board (CARB). The CARB handbook was designed, fundamentally, to direct land-use decision-making on the basis of its impact on "sensitive" populations. CBIA opposed the CARB handbook when it was published. The North State BIA is preparing to challenge the SAQMD plan. A hearing before the SAQMD Board is expected sometime in mid-January.

Brake Pads and Copper – Caltrans Supporting Watershed Modeling

(Water Quality News Flash) December 8, 2006 – The Brake Pad Partnership is investigating the possible impacts on water quality of copper used in brake pads. The BPP has completed eight scientific reports to support interlinked air and watershed modeling of the environmental fate of copper from brake pad wear debris. (Some effort has also gone into analyzing other constituents of brake pads including iron, which is a critical concern in runoff in the Lake Tahoe basin.) Caltrans has stepped in to support the next phase which is watershed modeling to better define how the copper residues make their way into receiving waters. This modeling will look at all sources including brake pads, "architectural" copper, disinfectants, etc. A draft modeling report is due next summer and a final by year end.

Air deposition modeling indicates that brake pad copper spreads in urban watersheds due to aerial dispersion and re-suspension of the fine particles that wear off brake pads during use. Aerial deposition of brake pad copper is primarily a localized phenomenon related to traffic levels in a watershed and is not readily captured by traditional air quality monitoring methods. Copper from brake pads dissolves relatively easily in the environment and appears to be the largest source of copper in urban runoff. Copper is one of the constituents of urban runoff that most consistently exceeds water quality objectives at the point of discharge, however, it is less certain that these exceedances translate into water quality impacts at least in some waters (see *NewsFlash 06-49*). Several California TMDLs target copper together with other metals.

Brake pad manufacturers working with the BPP have agreed to voluntarily introduce new products within five years if brake pad wear debris is found to be a significant cause of surface water impairment. Unfortunately, copper use in brake pads on new cars increased about 60 percent from 1998 to 2004 due to formulation changes to meet new vehicle safety standards. Currently, all manufacturers participating in the BPP have research programs to develop pads with low or no copper. At least one manufacturer makes heavy metal-free replacement brake pads; however, it is not known (due to trade secret protections) if any low/no-copper pads are used in new cars. BPP *Fall Update* with summary of studies and future plans:

<http://www.suscon.org/brakepad/pdfs/UpdateFall2006.pdf> Additional BPP information and reports:

<http://www.suscon.org/brakepad/>; Similar studies are being done in Europe due to water quality concerns as well as concerns that roadside copper may build up to levels affecting soil biota: www.mai.liu.se/ties2006/tb/BergbackTIES2006.ppt

Caltrans District Stormwater Contacts – Listed on Website

(Water Quality News Flash) December 8, 2006 – The Caltrans site lists the District storm water contacts as well as HQ staff involved in production of the SWMP, public outreach, and other management functions:

<http://www.dot.ca.gov/hq/env/stormwater/contact/index.htm>

Pesticides Sprayed on Waterways – EPA Issues Final Regulations: CA Policy Not Finalized

(Water Quality News Flash) December 26, 2006 – In 2001, a federal appeals court decision (*Headwaters, Inc. v. Talent Irrigation District*) determined that NPDES permits are needed whenever herbicides or other pesticides are applied directly to waterways that may contact “waters of the U.S.” Storm water system managers sometimes need to apply chemicals to waterways to control mosquitoes or to clear clogged drainage ditches. The SWRCB responded to the court decision with a statewide general permit which was subsequently replaced by two statewide NPDES permits: *Discharges of Aquatic Pesticides for Vector Control* (WQ Order 2004-0008-DWQ) and *Discharge of Aquatic Pesticides for Aquatic Weed Control* (WQ Order 2004-0009-DWQ). Both permits are currently in effect.

U.S.EPA has taken a different approach and has previously issued guidance concluding that application of a pesticide to U.S. waters, consistent with the *Federal Insecticide, Fungicide, and Rodenticide Act* (FIFRA), does not constitute a discharge of a pollutant under the Clean Water Act in specified circumstances and therefore does not require a permit. EPA has now issued final regulations stating that pesticide use in compliance with FIFRA does not require an NPDES permit in two specific circumstances:

1. the pesticide is applied directly to waters of the U.S. to control pests present in the water.
2. the pesticide is applied to control pests that are over, including near, waters of the U.S.

The State Board is currently formulating a response to the new EPA regulations. In comments sent in 2005 to EPA, the State said: “The Clean Water Act’s mandate to ‘restore and maintain the chemical, physical, and biological integrity of the nation’s waters’ is not qualified by the suffix: ‘unless the impaired integrity was caused by properly applied product.’” In addition, on Dec. 12, Baykeeper, along with five other groups, filed suit in the U.S. Court of Appeals, Ninth Circuit, to overturn the new regulations. Caltrans staff with questions should contact their District Division of Maintenance Landscape Specialist. Issues requiring further inquiry should be directed to the Headquarters Division of Maintenance Landscape Program Administrator. EPA regulation: <http://www.epa.gov/fedrgstr/EPA-PEST/2006/November/Day-27/p20002.htm> . Those applying pesticides to waterways should check the State website for updates: <http://www.swrcb.ca.gov/npdes/aquatic.html>

Los Angeles Storm Water Permit – Appeals Court Reverses Itself: Environmental Documentation Not Required

(Water Quality News Flash) December 26, 2006 – NewsFlash 06-42 noted the long-running litigation by 32 LA area cities, the county, and others against the 2001 MS4 storm water permit issued by the Los Angeles Regional Board. In October, 2006, a California Appeals Court ruled against the challengers on most points but did require the Regional Board to set aside the 2001 permit and conduct a limited California Environmental Quality Act review. In November, the Appeals Court modified its opinion and determined that an environmental review is not needed. A requirement to assess environmental impacts of municipal storm water permits (as well as other NPDES permits) could have led to significant delays in issuing permits. Original opinion: <http://www.courtinfo.ca.gov/opinions/documents/B184034.PDF> Order modifying original opinion: <http://www.courtinfo.ca.gov/opinions/documents/B184034M.PDF>

SOUTHERN CALIFORNIA

Water Battle – Congress OKs Bill to Speed Lining of All-American Canal

(San Diego Union-Tribune) [A long-planned water conservation project in Imperial County that would boost San Diego County's future supply but decrease that of Mexicali farmers has been ordered completed "without delay" by Congress.](#)

ALSO: [Congress jumps into canal-lining controversy](#)

[International water rights case along border heats up](#)

Pollution Shield – Penalty Waivers Allow the Military to Skirt Hefty Fines

(San Diego Union-Tribune) [When Navy officials announced in mid-November that they inadvertently piped 14.2 million gallons of sewage into a tributary of San Diego Bay, water-quality regulators were aghast. ... \[But\] thanks to an age-old legal theory and inaction by Congress, the military and other federal agencies can sidestep fines for violating the Clean Water Act of 1972.](#)

Surf Test – Beach Water Study Supports Warnings

(San Diego Union-Tribune) [New research shows that surfers and other beachgoers should take beach contamination warnings seriously, especially if they're anywhere near the U.S.-Mexico border.](#)

Tribes Get Seat on SANDAG

(Calcoast Update) December 22, 2006, SAN DIEGO – San Diego County Indian tribes are going to get a voice next year, although not a vote, on a regional board that plans for future growth and builds urban highways. <http://www.calcoast.org/news/cpr.htm>

State's Role in O.C. Project is Challenged

(Calcoast Update) December 22, 2006 – A state Coastal Commission decision to classify two Laguna Beach drainage ditches as waterways subject to environmental protection is being challenged in a lawsuit by a Catholic school that wants to build a bigger school on its campus. <http://www.calcoast.org/news/coast.htm>

Agency Explores Quality-of-Life Tax

(Calcoast Update) December 22, 2006, SAN DIEGO – Regional planners are polling San Diego County residents to see if they would support a special "quality of life" tax to fund beach-sand replenishment, open-space purchases, habitat restoration and water-quality programs, an agency official said Thursday. <http://www.calcoast.org/news/coast.htm>

Tidy Up, or Else – Complaints Spur Cleanup at Oceanside Industrial Park

(North County Times) [Spurred on by a relentless neighborhood activist, the city has warned several businesses on and around Industry Street that they need to clean up their operations, especially those that could threaten nearby Loma Alta Creek, or face citations.](#)

Pollution Paradox – Imperial Beach Can't Shake Its Dirty-Water Image

(Voice of San Diego) [The Tijuana Estuary spreads into the milky, moonlit distance like waves of crushed velvet. ... The sewage- and pesticide-tainted water pollution that plagues Imperial Beach didn't keep Scott Ketcham from buying a home, but it keeps him wary.](#)

Foul Bloom – Cluster of Decomposing Algae Stinks up Lake Hodges

(San Diego Union-Tribune) [An unseasonally large algae bloom is causing fish to die at Lake Hodges and putting out a foul odor. The algae cluster has caused the Santa Fe Irrigation District to stop drawing until the bloom dissipates and the water returns to its more natural condition.](#)

Residents Question Corps' River-Clearing Plan

(Cal Coast Update) December 7, 2006, OCEANSIDE – Timing and the possibility of debris on the city's beaches were the top concerns for a handful of homeowners who attended a downtown Oceanside meeting Thursday night to hear about the Army Corps of Engineers' plans for the San Luis Rey riverbed. <http://www.calcoast.org/news/waterq.htm>

Habitat Board OKs Preserving 4,000 Acres

(CBIA News Summary) December 5, 2006 – Western Riverside County leaders on Monday voted to preserve 4,000 acres of open space in and around Murrieta for endangered species but to allow for possible development on the reserve's edges, despite objections from conservationists. The 15-2 vote by the Western Riverside County Regional Conservation Authority came after Mike Allen, director of UC Riverside's Center for Conservation Biology, explained that patches of protected habitat should be carved out between any development that may be approved on the borders. The number and location of the so-called steppingstones should allow wildlife to live in them and to travel from the preserved area known as Core 2 to established reserves around Lake Skinner east of Temecula and Diamond Valley Lake near Hemet, Allen said. http://www.pe.com/localnews/inland/stories/PE_News_Local_D_habitat05.3a60f33.html

ANNOUNCEMENTS

[25th Annual Water Law Conference: Changing Values, Changing Conflicts](#)

February 22-23, 2007, San Diego, CA – [Hotel del Coronado](#)

[Click Here to Register](#)

The 25th Anniversary Water Law Conference will focus on the changing values for water use and the resulting changes in legal conflicts over water. The conference includes speakers and panels reflecting the broad diversity of issues and perspectives on the most challenging issues now facing the water law community. Speakers will discuss past, present and anticipated future changes and trends in water law, and how those changes will affect your practice.

The conference will open with perspectives on the changing nature of water conflicts and the most significant trends over the last 25 years, from water law luminaries of the last quarter century. After a rousing debate about changes in how courts defer to agency determinations, particularly in light of the 2006 *Rapanos* decision, panels will examine more closely certain critical issues now facing the water law community – from instream use and conflicting sovereigns to international conflicts and conservation. Friday morning will address emerging issues that will change the nature of water law practice in the next quarter century, including water quality issues arising out of inter-basin transfers, resolution of water rights conflicts, and the dynamic relationship between water law and science. The conference will close with a special “Hot Topics” lunch on climate change and how it may affect water law practice, including a presentation on California’s recent efforts to assess how its water policy may need to change to address global warming.

This year’s conference also offers two early morning panels – one on water law fundamentals to help those new to the water law field, and one on the ethics of ex parte contacts in a world where water conflicts are now often resolved outside formal adjudications.

In Case You Missed It...

Foley & Lardner's Environmental Regulation Practice recently hosted its December 14, 2006 session in the 2006 Environmental Law Update Web Conference Series. Topics covered in this session included:

- **New Democratic Congress – Old Republican Administration**

New committee chairs in both houses are promising a vigorous commitment to climate change legislation and greatly increased oversight over EPA programs. What to expect from the new Congress on climate change and other key environmental issues.

- **Waste Electronics**

Update on state regulation of waste electronics disposal and recycling.

■ 2007 Hot Topics – Redevelopment and Remediation

Recent trends and success stories.

If you missed the Web Conference and are interested in reviewing the PowerPoint, a PDF version can be found on [Foley's website](#). Once on the event site, click on "Presentation Materials" located in the right column under Event Materials to download a copy.

If you have questions on the content of the December 14 Web Conference or would like to suggest a topic to be covered in the next session, please contact any of the speakers (contact information provided in the event materials).

Please mark your calendar and watch for additional information to reach you regarding our 2007 Environmental Web Conference Series. **The dates are April 19, July 19 and October 18, 2007.** The sessions are scheduled to begin at 11:30 a.m. Central and last approximately one hour. If you would like to pre-register for these sessions to ensure your participation, please email your registration information, including your name, company name, job title, company address, phone number and email address to eharris@foley.com. As a reminder, Foley will apply for CLE credit after the session.

For more information on the group and each attorney's specific areas of practice, please visit Foley.com/environmental.

Paying for Sustainable Water Infrastructure Conference

This will be the first national conference to address the challenge of integrating the diverse tools and strategies to pay for sustainable water infrastructure. Conference will be held on March 21-23, 2007 at the Hilton Atlanta in Atlanta, Georgia.

<http://www.payingforwater.com/>

The International Erosion Control Association (IECA) Invites You to Their Annual Conference & Expo, EC07, in Reno, Nevada, February 12 – 15, 2007. [Click here to register.](#)

U.S. EPA Watershed Planning Workshop

Watershed Planning: A Workshop on Developing and Implementing Plans To Improve Water Quality – January 24-25, 2007

Doubletree Hotel & Conference Center, Berkeley Marina, 200 Marina Boulevard Berkeley, California 94710

The U.S. Environmental Protection Agency Region 9 office in San Francisco is sponsoring a workshop for federal, state, tribal, and local representatives to promote the development and implementation of watershed plans that improve water quality and meet federal and state requirements.

This workshop will examine the watershed planning process, focusing on how to achieve more significant water quality improvements through quantification of pollutant loads and provide for ongoing implementation. The workshop will also address how watershed planning can integrate related water quality efforts such as TMDLs and source water protection, along with other natural resource and community needs.

This workshop is intended for watershed managers and representatives, public agency staff, local planners, and others active in the water resource planning field.

For registration information and complete workshop details, please view the workshop brochure at http://www.waterboards.ca.gov/watershed/docs/wtrshed_plan_wkshp_sf_jan07.pdf. For your convenience, one is also attached to this email in PDF format.

Water Board's Water Quality Monitoring Program (SWAMP) Publishes Fact Sheets & Assessment Report

The State Water Board's water quality monitoring program, SWAMP, the Surface Water Ambient Monitoring Program, has published two water quality fact sheets on streams and coastal estuary waters. SWAMP has also published the Clean Water Act (CWA) assessment of the quality of the State's coastal waters and wadeable streams (CWA Section 305(b)) report.

The two fact sheets summarize some of the information in the assessment or 305(b) report. The first fact sheet summarizes monitoring results which suggest that nearly 70 to 80% of our perennial wadeable streams are in good condition. The second fact sheet summarizes monitoring which indicates most of our coastal estuaries are in fair to good condition.

These fact sheets can be viewed on our website at: <http://www.waterboards.ca.gov/swamp/factsheets.html>.

The water quality assessment or 305(b) report can be viewed on our website at:

<http://www.waterboards.ca.gov/swamp/reports.html>.

SWAMP provides a statewide framework to coordinate high quality and consistent scientific methods and design strategies to improve surface water monitoring, assessment, and reporting. SWAMP provides partnerships to foster collaboration, advance scientific methods, and improve management within all elements of the water quality monitoring community.

SWAMP also heightens public awareness and understanding, as well as increasing public involvement and stewardship of our water resources.

For more information on the SWAMP program, please visit our website at: <http://www.waterboards.ca.gov/swamp/index.html>.

For more information on our/your Citizen (Volunteer) Monitoring Program, or Clean Water Team, please visit this website at: <http://www.waterboards.ca.gov/nps/volunteer.html>.

LEGISLATION

CA AB 19

Author: DeVore (R)

Title: Water Quality: Santa Ana Region

Introduced: 12/04/2006

Location: ASSEMBLY

Summary: Establishes the Santa Ana Regional Water Quality Improvement Project and the Santa Ana Regional Water Quality Improvement Board. Authorizes a city or county to allow a discharger within its jurisdiction, upon the request of the discharger, to become subject to regulation by the Santa Ana Regional Water Quality Improvement Board. Authorizes the developer of a development project to agree to pay a fee to the appropriate city or county, based on the acreage and density of the proposed development project.

STATUS: 12/04/2006 INTRODUCED.



ab19.pdf (153 KB)

CA SB 8

Author: Kuehl (D)

Title: California Bay-Delta Authority Act

Introduced: 12/04/2006

Location: SENATE

Summary: Requires the California Bay-Delta Authority to carry out programs and commitments that address the goals and objectives of the CALFED Bay-Delta Programmatic Record of Decision. Provides that environmental justice is among the prescribed program elements.

Status: 12/04/2006 INTRODUCED.



sb8.pdf (144 KB)

CA SB 27

Author: Simitian (D)

Title: Clean Drinking Water: Water Supply Security

Introduced: 12/04/2006

Location: SENATE

Summary: Enacts the Clean Drinking Water, Water Supply Security, and Environmental Improvement Bond Act of 2007 which, if approved by the voters would authorize, for purposes of financing a water conveyance and environmental improvement program, the issuance, pursuant to General Obligation Bond Law, of bonds.

Status: 12/04/2006 INTRODUCED.



sb27.pdf (267 KB)

Foley & Lardner LLP bulletins are intended to provide information (not advice) about important new legislation or legal developments in the Stormwater area. The great number of legal developments does not permit the issuing of an update for each one, nor does it allow the issuing of a follow-up on all subsequent developments. This newsletter is not legal advice and should not be construed as legal advice. If you need legal advice please contact your attorney.

Internal Revenue Service regulations generally require that, for purposes of avoiding United States federal tax penalties, a taxpayer may only rely on formal written opinions meeting specific requirements described in those regulations. This newsletter does not meet those requirements. To the extent this newsletter contains written information relating to United States federal tax issues, the written information is not intended or written to be used, and a taxpayer cannot use it, for the purpose of avoiding United States federal tax penalties, and it was not written to support the promotion or marketing of any transaction or matter discussed in the newsletter.