

Legal News is part of our ongoing commitment to providing legal insight to our environmental stormwater clients and our colleagues.

If you have any questions about this issue or would like to discuss these topics further, please contact your Foley attorney or:

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A Compilation of Stormwater and Other Related Water News

National News

House Votes to Protect California's Shores From Off-Shore Oil Drilling

(*San Francisco Chronicle*, April 1, 2008) The U.S. House of Representatives has approved legislation to ban development in federal waters along all 76 miles of Sonoma County's coastline and off the southern tip of Mendocino County's coast. The measure would more than double the size of two existing National Marine Sanctuaries, the Gulf of the Farallones, and Cordell Bank. The measure was proposed by Rep. Lynn Woolsey (D-Petaluma), and was passed by the House on March 31, 2008. The measure now goes to the U.S. Senate, where California Democratic Sens. Barbara Boxer and Dianne Feinstein are pushing a similar version. Boxer's spokesperson states that Sen. Boxer hopes to move the measure through the Senate Committee on Commerce, Science, and Transportation and pass in the U.S. Senate by the end of 2008. Woolsey has stated that if the measure passes, it would result in a permanent ban on exploration and drilling in these areas.

Posted: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/03/31/MNEWTF63.DTL>

New Wetlands Regulation Announced

(*Los Angeles Times*, March 31, 2008) The U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers have announced final approval of regulations to encourage developers to compensate for the destruction of wetlands or streams by paying for the creation of new ones off site. Specifically, the regulation encourages expanded use of "mitigation banking," in which a developer can obtain a permit to destroy a wetland if the developer agrees to invest in off-site wetland creation or enhancement. Environmentalists have expressed concern that the new mitigation policy would make it cheaper to mitigate impacts to wetlands, which could encourage wetlands destruction and overall wetland loss.

Posted: <http://www.latimes.com/news/science/environment/la-na-wetlands1apr01,1,3125412.story>

California News

PG&E Announces Contracts for Three New Large Solar Power Plants

(*San Francisco Chronicle*, April 1, 2008) Pacific Gas & Electric Company (PG&E) has announced contracts for three new large solar power plants in the Mojave Desert. Combined, the three installations will generate enough electricity for up to 375,000 homes. Each installation will consist of fields of mirrors that focus sunlight onto centralized towers, which will boil water and create steam to turn turbines. The first plant is anticipated to begin operating by 2011. Each power plant would use groundwater that would be recycled within the plant. After spinning the turbines, the steam would be cooled, and the condensed water would then flow back to the boilers to be turned into steam again.

Posted: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/04/01/BUA1VTCJT.DTL>

Sonoma County Plans to Use Wastewater as an Energy Source

(*San Francisco Chronicle*, April 7, 2008) The Sonoma County Water Agency is planning a demonstration project that would use treated wastewater to heat and cool buildings and then use the piped water to irrigate landscaping and vineyards. The system was developed in part by scientists at the Los Alamos National Laboratory. Though a standalone project for now, the system is part of Sonoma County's broad goal to achieve "carbon-free" water by 2015 — using renewable energy sources to power the county's entire network of wastewater treatment plants and pumps. Sonoma County officials are meeting with lawmakers and proposing the allocation of money for the project and the establishment of a fund, similar to the Community Development Block Grant Program, to pay for similar projects across the United States. In addition to federal money, the county is considering the use of revenue bonds and the creation of a special assessment district. The project is estimated to save 90 percent on natural gas and about 50 percent on electricity for heating and cooling.

Posted: <http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2008/04/07/MNJ3VU4DV.DTL>

Southern California

Wastewater Treatment Plant Stops Spreading Treated Sewage on Agricultural Lands

(*Desert Dispatch*, April 2, 2008) Until recently, the Victor Valley Wastewater Reclamation Authority (Authority) spread biosolids — human waste that has been processed to destroy disease-causing organisms — on farms in Newberry Springs and Lucerne Valley. Neighbors and the Newberry Springs Community Services District have complained to the County of San Bernardino about odor, flies, and possible groundwater contamination from the biosolids. The Authority says that it complies with the EPA's regulation of biosolids, that it is safe to spread, and poses no public health risk. Nevertheless, the Authority has agreed to stop using the treated sewage for fertilizer on Newberry Springs farms temporarily while the county considers increasing regulations on the spreading of the treated sewage.

Posted: http://www.desertdispatch.com/news/biosolids_2973_article.html/spreading_water.html

Regional Board to Discuss Carlsbad Desalination Proposal

(*San Diego Union Tribune*, April 8 and 10, 2008) On April 9, 2008, the San Diego Regional Water Quality Control Board (RWQCB) conditionally approved a plan by Poseidon Resources (Poseidon) to compensate for the number of fish and marine organisms that would be killed by its proposed desalination plant in Carlsbad. In August 2006, RWQCB had given Poseidon a permit to allow the plant to desalinate ocean water in conjunction with the Encina Power Station; the permit, which expires in 2011, is valid only as long as the power plant is in operation. The plant proposes to produce 50 million gallons of drinking water per day by forcing seawater through filters and reverse-osmosis membranes. Poseidon proposes creating 37 acres of new habitat for marine organisms as one way to compensate for the plant's effect on the environment.

Posted: <http://www.signonsandiego.com/news/northcounty/20080408-0649-1bo08desal.html>

and

<http://www.signonsandiego.com/news/northcounty/20080410-9999-1mc10desal.html>

Legislation

AB 2046 (Jones)

Existing law requires a city or county that determines a project is subject to the California Environmental Quality Act to identify any public water system that may supply water for the project and to request those public water systems to prepare a water supply assessment (WSA). If a water supply for a proposed project includes groundwater, existing law requires that the WSA contain certain additional information, including a detailed description and analysis of the amount and location of groundwater that is projected to be pumped and an analysis of the sufficiency of the groundwater from the basin(s) from which the proposed project will be supplied to meet the projected water demand associated with the proposed project. AB 2046 would require the WSA to include only the amount of groundwater projected to be pumped and the groundwater included in the sufficiency analysis that has been determined by the State Department of Public Health or a local health officer to meet standards applicable for the proposed use or that has been treated to the treatment standard applicable to the proposed use. For more information on AB 2046, see http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_20012050/ab_2046_bill_20080328_amended_asm_v_98.html.

SB 1176 (Perata)

SB 1176 would alter the RWQCB membership, qualifications, and pay, and place new requirements on the RWQCB's actions. The State Water Resources Control Board (SWRCB) would be authorized to order the commencement of withdrawal proceedings with regard to an RWQCB's program authority on the SWRCB's own initiative or in response to a petition from an interested person. The bill would require any withdrawal order to state whether the SWRCB or another RWQCB would become the implementing agency within the jurisdiction of the former RWQCB. The bill also would decrease the members on each of the RWQCBs from nine to seven, and would increase the allowable compensation from \$100 for each day the member is engaged in the performance of official duties to \$500 per day. SB 1176 also would require the RWQCBs to submit workplans with their annual budgets to the SWRCB, and would require the SWRCB to take those workplans into consideration with preparation of the annual budget. Existing law requires RWQCBs to establish water quality objectives in water quality

control plans to ensure the reasonable protection of beneficial uses and the prevention of nuisance. In doing so, the SWRCB is required to consider specified factors, including economic considerations. SB 1176 would specify that the economic considerations required to be undertaken by the SWRCB must include an assessment of the overall economic value of improved water quality. For more information on SB 1176, see http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_1151-1200/sb_1176_bill_20080325_amended_sen_v98.html.

AB 2900 (La Malfa)

Under existing law, the SWRCB and RWQCBs prescribe waste discharge requirements in accordance with the Clean Water Act and the Porter-Cologne Water Quality Control Act, which generally impose a mandatory minimum penalty of \$3,000 for each serious waste discharge violation. AB 2900 would require mandatory civil penalties imposed administratively within 12 months of learning of a violation, and mandatory civil penalties petitioned to a superior court by the Attorney General to be requested by an RWQCB or the SWRCB within 12 months of learning of a violation. For more information on AB 2900, see http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2851-2900/ab_2900_bill_20080324_amended_asm_v98.html.

Announcements

EPA 2008 Clean Water Act Recognition Awards Application Available

The Clean Water Act Recognition Awards program recognizes municipalities and industries for demonstrating outstanding technological achievements or an innovative process, method, or device in their waste treatment and pollution abatement programs. Awards are presented for outstanding operations and maintenance at publicly owned wastewater treatment facilities, exemplary biosolids management, pretreatment program excellence, stormwater management excellence, and combined sewer overflow (CSO) control program excellence. Candidates may be nominated by EPA regions, state water pollution control agencies, municipalities, consultants, wastewater treatment facilities, or other interested parties in their state. To be considered for a national award, EPA regional offices must submit nominee applications to EPA headquarters by Friday, May 30, 2008. For more information, see <http://www.epa.gov/OWM/mtb/intnet.htm>.

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Tours of San Diego County Low Impact Development (LID) Demonstration Site

San Diego Coastkeeper is offering tours of San Diego County's retrofitted stormwater treatment operations center facility using pervious asphalt, concrete, pavers, and treatment train technologies to interested members of the public. Tours will run for an hour and will be conducted during Thursday and Friday afternoons through the end of April. Contact Karen Franz at karenjm@sdcoastkeeper.org for more information.

Department of Water Resources Publishes Updated *Urban Drought Guidebook*

The Department of Water Resources (DWR) has published an updated version of its *Urban Drought Guidebook* to assist local water agencies and communities prepare for the possibility of a dry year or water supply interruptions. DWR staff, in cooperation with the California Urban Water Conservation Council and the U.S. Department of the Interior Bureau of Reclamation, held drought workshops throughout the state last year to solicit input for the guidebook update. A copy of the guidebook is available on DWR's Web site at <http://www.owue.water.ca.gov/docs/UrbanDroughtGuide.pdf>.