



Regulatory Framework

Legislation
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Legislation

The regulatory framework for water is extremely complex. Regulations governing water in Santa Barbara County in particular, and California in general, cannot be found in any one source. A variety of state, local and federal laws and regulations control and guide water management in the county. This section contains a brief overview of pertinent regulations and legislation, and a list of references where more information can be obtained.

Federal

The Clean Water Act and Safe Drinking Water Act (SDWA) are both enforced by the Environmental Protection Agency (EPA) Office of Water.

Safe Drinking Water Act (1975)

The Safe Drinking Water Act of 1975 gave the EPA the authority to establish and enforce guidelines for the achievement of minimum national water quality standards for every public water supply system serving 25 people or more. The State's primary drinking water standards are based upon the National Interim Primary Drinking Water Regulations (40 CFR Part 141). These standards specify the maximum allowable concentrations or contaminant levels of substances present in drinking water. The substances regulated by the National Primary Drinking Water Act Regulations are those known to cause illness, death or adverse physical effects to humans. These contaminants are referred to as "primary contaminants." The State's secondary drinking water standards are based on the National Secondary Drinking Water Regulations (40 CFR Part 143). The secondary standards regulate "secondary contaminants". These contaminants tend to make the water undesirable. Objectionable odor,

taste, particulate matter, hardness and corrosiveness are secondary contaminants. In 1988 and 1989, the Safe Drinking Water Act was amended. The amendments and the regulations for their implementation may be found in Title 22, Chapter 15, Domestic Water Quality and Monitoring. These amendments require water purveyors to test for new types of organic and chemical contaminants. In addition, the testing procedures and techniques that are required have also been revised.

The Clean Water Act

The Clean Water Act (CWA) controls the discharge of toxic materials into surface water bodies. The CWA was the result of the 1899 Rivers and Harbors Act, which prohibited discharges that could interfere with interstate transportation. In 1948, another water control act was passed to protect water bodies by imposing effluent limitations at the source of pollution discharge. In 1972, the CWA was amended with the primary purpose identified as "restoring and maintaining the chemical, physical and biological integrity of the nation's waters" and "to achieve a level of water quality by July 1983 that provides for recreation in and on the water, and for the propagation of fish and wildlife." The amendments provided for federal primacy (previously there was more state discretion), expanded the coverage of the legislation, changed pollution control methodology and modified prior enforcement provisions.

The CWA can be broken down into six basic areas as follows:

1. Research projects and grants designed to clean up pollution and prevent further pollution;

(Portions of this section were adapted from Volume II of the *Ventura County Water Management Plan* published by the County of Ventura Resource Management Agency and Public Works Agency, 1994)

2. Grant programs for construction of treatment works, wastewater treatment planning and water quality management plans;
3. Effluent limitations on discharges into navigable waters, continuing revisions of water quality standards;
4. A National Pollutant Discharge Elimination System (NPDES) permitting discharge of point source pollutants;
5. Limitations on dredge and fill material (Section 404);
6. Miscellaneous administrative provisions, definitions, EPA powers, provisions for judicial review.

Section 208 of the CWA

Under Section 208 of the 1972 amendments, the governor of each state was mandated to identify those areas in the state that had “substantial water quality control problems”. Once identified, the governor was required to select “a single representative organization, including elected officials from local government” to operate “a continuing area-wide waste treatment management planning process”. Following state certification, plans prepared under the process were to be approved by the EPA.

In February 1987 Congress amended the Clean Water Act with amendments known as the Water Quality Act of 1987. Under these amendments and the EPA regulations, states were required to identify, by February 1989, water segments impaired by pollutants (including toxic pollutants) even where technology-based limits are met. Several lists are required. For each list there must be a control strategy/management plan developed to reduce pollution. The law requires that water quality standards be met within three years.

State

Since water usage affects many areas of State concern, regulations are organized accordingly. Regulations can be found in the California Water Code, Health and Safety Code, Government Code as well as in other codes. The State Department of Health Services regulates drinking water standards, the Public Utilities Commission (PUC) regulates entities that serve water to the public in relation to rates and accounting procedures, the Corporations Commissioner regulates water service provided by water companies that do not fall under the jurisdiction of the PUC, and the Water Resources Control Board and its regional offices regulate discharges of pollutants into navigable waters and water quality in general.

The Dickey Act of 1949 provided the organization for the State of California’s administration of water. The act created nine geographical regions, each to be regulated by a Regional Water Quality Control Board. Santa Barbara County falls within Region 3. These nine boards were granted the authority to establish and enforce water quality standards within watersheds under the direction of a main administrative body, the California Water Quality Control Board. In 1969, the Porter-Cologne Act expanded the supervisory and appellate powers of these boards and required the formulation of specific water quality objectives and plans for their achievement. (See following page for more information.) These objectives are contained in Water Quality Control Plans, referred to as Basin Plans.

The EPA oversees the State Water Resources Control Board’s administration and compliance with federal regulations promulgated by the Clean Water Act.

The Porter-Cologne Water Quality Control Act, 1987 Amendments

The Porter-Cologne Water Quality Control Act (1987) provides the authority and method for the State of California to implement its water management program. The State's program is a comprehensive water quality control program that includes surface and groundwater. The Porter-Cologne Act establishes waste discharge requirements for both point and nonpoint source discharges, affecting surface water and groundwater.

The State of California's Water Quality Assessment (305B) Report was prepared by the State Water Resources Control Board in September of 1988 in response to the federal amendments. Within this assessment were three lists required by the federal government:

- a. A list of water segments having quality problems due to point source discharges of any of the 126 priority toxic pollutants (Section 304(1) B);
- b. A list that identified freshwater and marine water areas affected by toxics, regardless of the source (point or nonpoint) (Section 311.11); and,
- c. A list that identifies nonpoint source related surface water problems (Section 319).

To satisfy the requirements of Section 319 of the Clean Water Act, the State prepared a Nonpoint Sources Assessment Report that identifies surface water bodies affected, describes the process by which best management practices to control nonpoint sources are developed and describes existing control programs.

Safe Drinking Water and Toxic Enforcement Act (1986)

The Safe Drinking Water and Toxic Enforcement Act of 1986 prohibits the discharge or release of any significant amount of a chemical known to cause cancer or reproductive toxicity into the drinking water supply, by any person in the course of doing business. Each year the Governor of the State must require the publication of a list of chemicals known to cause cancer or reproductive toxicity. Violation of the discharge provisions under this act is subject to civil prosecution.

This act also requires that if a government employee obtains information about an illegal discharge of hazardous waste within the geographic area of his/her jurisdiction, he/she must report the incident within 72 hours to the Public Health Officer of the county or the Board of Supervisors. Violation of this requirement will subject the government employee to felony prosecution.

AB 3030 – The Groundwater Management Act, 1992

The Groundwater Management Act, commonly referred to as AB 3030, became effective in January 1993. The legislation is designed to provide local public agencies with increased management authority over groundwater resources in addition to existing groundwater management capabilities. The legislation is permissive and provides encouragement for local agencies to work cooperatively and voluntarily towards groundwater management.

A key element of this law is the adoption or implementation of groundwater management plans. As provided in AB 3030, any local agency that provides water service to all or a portion of its service area and whose area includes all or a portion of a groundwater basin may adopt and implement by ordinance or resolution a groundwater management plan. The statutory definition of "local agency"

is expressly limited to “public” agencies, and this would exclude mutual water companies and investor-owned utilities.

For More Information

California State Water Resources Control Board. 1987. *Porter-Cologne Water Quality Control Act and related code sections, 1987 amendments.*

Camia, C. 1994. Congress Bracing to Renew 1972 Clean Water Law. *Congressional Quarter Weekly.*

Camia, C. 1994. Debate on Clean Water Act echoes states’ fears. *Congressional Quarter Weekly.*

Environmental and Public Works Committee. 1994. *REPORT: Water Pollution Prevention and Control Act of 1994.* U.S Government Printing Office.

Environmental Protection Agency, Office of Water. 1986. *Safe Drinking Water Act, 1986.*

Practicing Law Institute. 1987. *Clean Water Act, As Amended by the Water Quality Act of 1987.*

Federal Water Pollution Control Act (Clean Water Act) 1972.

California Department of Health Services: <http://www.dhs.cahwnet.gov/index.htm/>

Department of Water Resources; California Water Page: <http://www.dwr.water.ca.gov/>

United States Environmental Protection Agency: <http://www.epa.gov/>

Environmental Protection Agency; Water Quality - Surf Your Watershed: http://www.epa.gov/surf/surf_search.html/

Regulatory Agencies

A number of county, state and federal agencies play a role in the management and protection of water resources in California. They are listed below with a brief description of their responsibilities. (Information contained in this section was obtained from the *California State Water Project Atlas*, published in 1999 by the California Department of Water Resources).

County Government

Water Management Structure and Responsibilities

The County plays an important role in the oversight of local water use and strives to assure the ongoing protection of local water resources. However, since the County does not develop water supplies or deliver water to customers, its role in local water management is indirect. The primary responsibilities of the County are to study water resources, help assess future needs, contract with state and federal agencies that operate local water projects, assure that new development does not exceed available supply, monitor groundwater quality and quantity, conduct public education programs, promote efficient use of water, coordinate with local water purveyors and protect water sources from contamination. The responsibilities of various County departments are discussed below.

Board of Supervisors/ County Water Agency Board

The Board of Supervisors also serves as the Board of Directors of the County Water Agency (see below). The Board of Supervisors and County Water Agency Board review and set land use policy as it relates to water, consider regional water management in conjunction with local water purveyors and cities, and make pertinent decisions regarding water quality and water supply enhancement (such as cloudseeding) for the unincorporated areas of the county.

Local Agency Formation Commission

LAFCO has oversight over the boundaries of local water purveyors and of annexations among and within water purveyors and other local governmental entities, and the creation of new water districts within the county.

County Administrative Office

Among its many other duties, the County Administrative Office monitors federal and state water-related legislation. Budget analysts coordinate with Santa Barbara County Water Agency (SBCWA) staff regarding programs and performance measures related to the SBCWA's roles and responsibilities.

Public Works Department

County Water Agency

The Santa Barbara County Water Agency (SBCWA) is part of the Water Resources Division of the Public Works Department. The SBCWA was established by the state legislature in 1945 to control and conserve storm, flood and other surface waters for beneficial use and to enter into contracts for water supply. The SBCWA prepares investigations and reports on cloudseeding and conservation augmentation, the county's water requirements, the water needs of projected development and the efficient use of water. It provides technical assistance to other County departments, water districts, and the public concerning water availability and water well locations and design. The SBCWA also administers the Cachuma Project and the Twitchell Dam Project contracts with the U.S. Bureau of Reclamation. More recently, the SBCWA has become the lead agency for Project Clean Water, a multiagency partnership with the mission of improving water quality in the county's creeks and beaches.

The SBCWA was originally empowered under State Water Code Section 3000 et seq. to cooperate and contract with the United States and State of California on behalf of municipalities and districts within

the Agency's boundaries. It has since been empowered to also acquire property, condemn for the purpose of right-of-way, and assume indebtedness either as principle, guarantor, or underwriter.

Water Agency Program Overview

The SBCWA operates under a nontraditional organizational structure. Instead of sections, it utilizes a matrix management structure to manage three regional programs. They are: (1) implementation and partial funding of operational programs such as the cloudseeding program, (2) implementation of the regional water conservation program and (3) development of county-wide hydrologic data and hydrologic models. Included in these programs are compilation and publication of an annual report on groundwater conditions, sediment management studies, technical support to other public agencies, and public information. Major water projects involving the SBCWA include the State Water Project (Coastal Branch Extension), Cachuma Project, and the Twitchell Project. These projects and programs are described in greater detail elsewhere in this report.

County Flood Control District

The Flood Control District is also a part of the Water Resources Division of the Public Works Department. The District was created in 1955 by the state legislature in response to severe flooding and damage suffered from storms in the early 1950s; its primary charge was to implement a program of channel maintenance and capital improvements to mitigate the threat to life and property from flooding. Today, the Flood Control District's major programs involve channel maintenance, design and construction of capital improvements, review of new development, and operation of a hydrological data collection/flood warning system. The Flood Control District is divided into ten active Flood Control Zones covering most of the unincorporated area and the seven cities in the county, exclusive of federal lands such as Los Padres National Forest and Vandenberg AFB.

Flood Control Program Overview

The District constructs regional flood control projects throughout the county and collects hydrologic data that serves as a basis for design criteria, maintenance activities, and mapping floodplains. The highest priority program for the Flood Control District involves operation and maintenance of the District's basins, channels, and other flood protection facilities and the emergency maintenance and repair of these facilities. In addition, District staff provides advance warning of impending floods and is involved in emergency response flood-fighting and support activities. Post-storm rehabilitation of flood control facilities is provided by the District through the removal of debris from debris basins and channels, and the reconstruction and repair of these facilities. The District is also responsible for reviewing proposed development to ensure conformance with applicable flood plain ordinances and prudent drainage practices.

Public Health Department

Environmental Health Services

Responsibilities

Environmental Health Services is a division of the Public Health Department, and is the implementing agency for portions of state water quality laws related to protecting public health and safety. Among other health protection legislation the Department is responsible for enforcing portions of the federal Clean Water Act and amendments, the Safe Drinking Water Act, and the State legal requirements of the Porter-Cologne Act and the Safe Drinking Water and Toxics Enforcement Act (commonly known as Proposition 65). Water management within Environmental Health consists of the following programs: Drinking Water (for small public systems), Liquid Waste, Solid Waste and Recreational Health.

- a. Drinking Water - Drinking water programs include those programs that oversee water resources which have not been used by humans prior to their extraction from groundwater basins

or surface water sources. These drinking water programs include the inspection, monitoring and permitting of small public water purveyors with fewer than 200 connections, and approval of individual water supply systems for proposed projects. Small public water purveyors are required to maintain a cross-connection control program to ensure that drinking water quality is protected from irrigation waters, agricultural fertilizers, and industrial process waters. In addition, public information must be disseminated as required by Proposition 65.

- b. **Liquid Waste** - As a guardian of public health, Environmental Health Services has a vested interest in the containment of communicable diseases and the prevention of surface water pollution. The Liquid Waste program protects the public from direct exposure to contaminated wastewater and promotes the proper treatment and disposal of all sewage. Environmental Health Services reviews the testing, plans, installation and repair of all on-site sewage disposal systems. This helps to ensure the adequate and safe construction of new and remodeled systems.
- c. **Solid Waste Program** - The Solid Waste Program provides regulatory oversight to solid waste facility operators. Environmental Health Services protects the public's health by ensuring proper placement, design, operation and closure of solid waste facilities and by enforcing regulations that require proper solid waste handling and disposal to help protect ground water supplies near landfill operations.
- d. **Recreational Health Program** - The purpose of the recreational health program is to ensure the safe and sanitary operation of public swimming facilities, as well as preventing the possible transmission of diseases and illnesses at all recreational facilities including public beaches. By monitoring the quality of our recreational waters, Environmental Health Services

can keep the public informed if these waters pose a threat to public health.

Planning and Development Department

The Planning and Development Department has several roles with respect to water resource protection and management. These roles fall primarily under either long-range planning functions (Comprehensive Plan, community plans), or short-term planning such as occurs during development review and permitting. The Department has the authority to recommend long-range policies to restrict land development in any given unincorporated area of the county to the level supported by available water supplies. The Department also has the authority to place conditions of approval on projects (the permit review or environmental review process) to minimize the amount of water used by new development. These conditions can include limiting high-water use landscapes and plumbing devices, requiring new commercial and industrial developments to use recycled wastewater or water-efficient processing technologies, and preparing water budgets that limit the overall consumption of water in new development.

Several tools the Department uses to evaluate new developments with respect to water availability and to limit the amount of water demand in new development include: the *Santa Barbara County Environmental Thresholds and Guidelines Manual*, 1995; the *Comprehensive Plan, Conservation Element, Groundwater Resources Section*, 1994; the *Standard Conditions and Mitigation Measures Manual* and *Land Use Development Policy #4/4 CCP Policy 2-6 (Adequate Services and Resources)*.

State Government

The Resources Agency

This is the parent agency that oversees the operations of all state departments dealing with natural resources. The Department of Water Resources, the State Water Resources Control Board, Fish and Game, and Parks and Recreation are included among them. Also included are departments responsible for forestry, air, energy and navigation and ocean.

State Water Resources Control Board (SWRCB)

This regulatory agency has the authority over the allocation of water rights and water quality to protect the beneficial uses of California's water. It has the ability to enforce regulations dealing with water issues. SWRCB also oversees the work of regional water quality control boards that rule on local water rights and quality issues within their geographic jurisdictions. The Board consists of five full-time, salaried members who fill specific specialty positions such as water quality, water rights, engineering, legal, and the public. Within Santa Barbara County, the SWRCB is responsible for surface water rights decisions and reservoir operations.

<http://www.swrcb.ca.gov/>

California Water Commission (CWC)

The CWC is a policy advisory board to the Director of the Department of Water Resources and the Governor on development, control and use of the State's water resources. CWC conducts public hearings and investigations statewide for the Department; provides a forum to California residents for examining water resources issues; acts as a liaison between the legislative and executive branches of State

government; coordinates planning, funding, and construction of federal water development and flood control projects with state and local projects and conducts an annual review of the progress of State Water Project construction and operation and reports its findings to the DWR and the California Legislature. The Commission consists of nine members appointed by the Governor.

California Department of Water Resources (DWR)

The mission of DWR is "to manage the water resources of California, in cooperation with other agencies to benefit the state's people and protect, restore and enhance the natural and human environments." DWR planned, designed, and oversaw the construction of the State Water Project (SWP). The Department operates and maintains the SWP facilities, as well as planning, designing, and overseeing any repairs, modifications, or new construction. DWR also provides technical and financial assistance to local urban and agricultural water agencies for water supply management, reclamation or recycling, and conservation projects; works with other state and federal agencies on environmental compliance, mitigation, and protection programs; and studies, plans and develops water management strategies, reports, and programs to address California's growing water demands, as well as projects and programs to enhance and protect the estuary of the Sacramento-San Joaquin Delta. Other DWR responsibilities include providing for public safety through dam safety and flood control programs, and educating the public about the Department's role and the significance of water in their lives. The State Water Project now extends into San Luis Obispo and Santa Barbara Counties. The Central Coast Water Authority is responsible for local operations.

California Department of Fish and Game (DFG)

This is the department that directs the state's fish and wildlife programs and administers the regulations, such as the Endangered Species Act, that protect and enhance their populations. DFG works with the Department of Water Resources to ensure that all projects comply with these environmental regulations. The department conducts fish and wildlife studies, develops and safeguards wildlife habitat, responds to off-highway oil and hazardous material spills and oversees cleanup operations, manages the state's fishing and hunting programs, regulates development in streambeds and waterways, and offers interpretive programs to educate the public.

<http://www.dfg.ca.gov/dfghome.html/>

California Department of Health Services (DHS)

This department administers public drinking water programs and ensures that health and safety standards are met by water agencies that distribute water to residences and businesses. DHS is also responsible for monitoring the effects of stormwater runoff and many other health-related programs.

<http://www.dhs.cahwnet.gov/>

State-Federal Agencies

CALFED Bay-Delta Program

This is an interagency entity that represents the signers of the State-Federal Framework Agreement, which called for a cooperative, coordinated process to solve long-term water quality and ecosystem problems in the San Francisco Bay-Sacramento River Delta Estuary. With assistance from urban, agricul-

tural, and environmental interests, and other stakeholders concerned with Bay-Delta issues, the signers of the Agreement developed the Bay-Delta Accord, which set forth major issues of concern in the Delta and fostered a cooperative effort to address these issues. The CALFED Bay-Delta Program was established to investigate potential solutions and propose the long-term solution to the problems in the Delta. The long-term solution selected by CALFED participants will ultimately affect Santa Barbara County water purveyors due to their participation in the State Water Project.

Federal Government

U.S. Fish and Wildlife Service (USFWS)

This bureau within the Department of the Interior works with others to "conserve, protect and enhance fish and wildlife and their habitats for the continuing benefit of the American people". Among its responsibilities is the administration of the federal Endangered Species Act to provide protection for terrestrial and aquatic plants and animals except anadromous fish. Within California, USFWS is responsible for biological opinions and critical habitat and recovery plans for listed species. The Service also works with federal, state, and local agencies and interests on wetland protection issues.

<http://www.fws.gov/>

U.S. Bureau of Reclamation (USBR)

This is a bureau within the Department of the Interior. The USBR operates and maintains the Central Valley Project and the Colorado River system. In Santa Barbara County, the USBR owns and operates Lake Cachuma and owns the Twitchell Reservoir.

The USBR's mission is "to manage, develop and protect water and related resources in an environmentally and economically sound manner in the interest of the American public." The USBR and the DWR signed a 1986 Coordinated Operation Agreement to meet Sacramento-San Joaquin Delta water quality standards and allow exchange of water supply and use of facilities.

<http://www.usbr.gov/>

U.S. Geological Survey (USGS)

The USGS provides reliable, impartial information to describe and understand the Earth. In addition to other purposes, the information is used to manage water, biological, energy, and mineral resources. The USGS, working with other agencies, uses monitoring and recording equipment to gather information from and about California's waterways, precipitation, and geology. Santa Barbara County works with the USGS on several cooperative programs monitoring streamflow, water quality and groundwater levels.

<http://www.usgs.gov/>

U.S. Army Corps of Engineers (COE)

As the primary federal flood control agency, COE develops guidelines for flood control storage in federally funded reservoirs and monitors the operation of these reservoirs to assure compliance. It also constructs some Congressionally authorized flood control projects and operates multiple-purpose projects. The federal government, through the Corps, contributes funds to local flood control projects. In Santa Barbara County the COE manages flood operations at Twitchell Reservoir.

<http://www.usace.army.mil/>