

California Regional Water Quality Control Board  
San Francisco Bay Region  
**EXECUTIVE OFFICER'S REPORT**  
A Monthly Report to the Board and Public

**February 2009**

*The next regular scheduled Board meeting is February 11, 2009.*

See <http://www.waterboards.ca.gov/sanfranciscobay/> for latest details and agenda

Items in this Report (Author[s])

\*\*\*\*\*

<b>Suspension of Bond Funds for Grant Projects (Susan Gladstone)</b> .....	Page 1
<b>Petition of Cleanup Order for 844 East Charleston Road (Michael Rochette)</b> ...	Page 2
<b>In memory of Janice Delfino (1926-2008)</b> .....	Page 2
<b>Surface Water Ambient Monitoring Program (SWAMP) (Karen Taberski)</b> .....	Page 3
<b>Enforcement - Pending Complaints &amp; Orders (Brian Thompson)</b> .....	Page 3
<b>U.S. EPA Fines DOE for Treatment Facility Shutdown (Agnes Farres)</b> .....	Page 4
<b>Construction Site Inspections (Christine Boschen and Wendy Katayanagi)</b> .....	Page 4
<b>Bay Area Watershed Network Meetings (Dale Hopkins and A.L. Riley)</b> .....	Page 5
<b>Point Molate Property Transfer Update (George Leyva)</b> .....	Page 6
<b>Offsite Characterization of Major Solvent Plume in Benicia (Kent Aue)</b> .....	Page 7
<b>Tesoro Golden Eagle Refinery (Vic Pal)</b> .....	Page 8
<b>Film Festival (Dyan Whyte)</b> .....	Page 9
<b>In-house Training</b> .....	Page 10
<b>Staff Presentations</b> .....	Page 10

\*\*\*\*\*

**Suspension of Bond Funds for Grant Projects (Susan Gladstone)**

On December 18, 2008, the State Department of Finance issued a Budget Letter stating that all agencies authorized to use funds from General Obligation (GO) bonds must suspend all projects and freeze all disbursements on projects that utilize the GO bonds. This action was taken as a result of the previous day's vote of the Pooled Money Investment Board (PMIB) to freeze all disbursements. As stated in the Budget Letter, "(t)he PMIB took this action to preserve necessary cash resources to pay the day-to-day operational needs of the state for the balance of the fiscal year pending further PMIB action in January. ...No future loans or higher amount of loan renewals will be approved until the budget crisis is resolved in a manner sufficient to allow the state to resume issuing bonds."

In our office, we currently manage a total of 27 grants, 21 of which are bond-funded grants from Propositions 13, 40, 50, and 84. The freeze does not affect the federally-funded 319(h) grant program or the State Revolving Fund loan program, or projects funded through the State Board's Cleanup and Abatement Account.

Since December 18, there has been no change in the status of the freeze, except for a vote by the PMIB in early January to continue funding only state operations. We have been in regular communication with State Board staff in the Division of Financial

Assistance in terms of how to work through individual issues with each of the grantees. Unfortunately, a number of the smaller organizations and non-profits that have benefited from grant funds over the years to support their work in watersheds have had to lay off employees, significantly reduce staffing, or close their offices. A number of the grant projects in this Region are nearing completion and may lose the opportunity to collect data or otherwise evaluate project success, such as stream restoration projects, implementation of management practices, and the like. Some final project reports would have provided us direct information to feed into TMDL development. Several important sediment-reduction projects scheduled for construction this summer will have to be rescheduled for the following year, assuming funding will resume. Unless the suspension is lifted and funding resumes, many of our grant projects have the omen of having public dollars spent with limited tangible results.

**Petition of Cleanup Order for 844 East Charleston Road (Michael Rochette)**

On January 9, Schlumberger petitioned the State Board to remove Fairchild Semiconductor Corporation from the site cleanup order the Board adopted in December for 844 East Charleston Road in Palo Alto. Schlumberger is the successor to certain environmental liabilities of Fairchild. The Board added Fairchild to the cleanup order based on substantial evidence that it was a discharger: Fairchild used TCE, it discharged TCE to the sanitary sewer, a video of the sewer line shows corrosion, sewer lines are prone to leak, and groundwater beneath the sewer line contains TCE. Schlumberger's petition restates the arguments it made before the Board that there is insufficient evidence to name Fairchild as a discharger. Schlumberger's petition also requests a stay of the Board's action, and this will be considered soon by the State Board. Staff will respond to the stay request and petition and will keep the Board updated on the status of the petition.

**In memory of Janice Delfino (1926-2008)**

Janice Delfino, long-time advocate for creeks, wetlands, and open space, passed away in 2008. She was one of the forces behind the founding of the Don Edwards National Wildlife Refuge, and was subsequently deeply involved in its management and ongoing success as a part of the Citizens' Committee to Complete the Refuge. With her husband Frank, she was a frequent and thoughtful commenter and occasional public speaker on permits that came before the Board. She was known for her warm demeanor, bountiful garden, and seemingly encyclopedic knowledge of the recent environmental history of the East Bay—including a remarkable record-keeping system that often assisted Board staff as they reviewed discharge violations or considered applications to fill creeks and streams.

On November 22, 2008, a ceremony and bench dedication were held in her honor at the Refuge headquarters. The ceremony was attended by hundreds of friends, family, local environmentalists and consultants, and agency staff and leaders, including Board staff. Tributes to Mrs. Delfino were given by family, long-time environmentalists such as Arthur Feinstein and Margaret Lewis, and agency heads including BCDC Executive Director Will Travis.

Mrs. Delfino brought a wealth of knowledge, passion, and warmth to the East Bay community of environmentalists. She is survived by her husband and family, and also by the results of her work, including the successful creation of the Refuge, ongoing efforts to restore Alameda Creek, and the preservation of creeks, wetlands, and critters throughout the East Bay.

**Surface Water Ambient Monitoring Program (SWAMP) (Karen Taberski)**

SWAMP has issued a new report, "Water Quality Monitoring and Bioassessment in Selected San Francisco Bay Region Watersheds in 2004 – 2006". The report can be found at [http://www.waterboards.ca.gov/water\\_issues/programs/swamp/regionalreports.shtml#rb2](http://www.waterboards.ca.gov/water_issues/programs/swamp/regionalreports.shtml#rb2). This is the third report by SWAMP assessing water quality in watersheds in the San Francisco Bay Region. This report evaluates East Bay creeks, Arroyo Mocho Creek, south coastal Marin creeks and San Francisco creeks. Data from this report was used in the current 303(d) listing update. The report concludes that: 1) benthic macroinvertebrate (BMI) assemblages at sites influenced by urban areas are generally in very poor condition, 2) the main water quality problems in urban creeks appear to be low water flows, high levels of nutrients, high temperatures, low dissolved oxygen and disturbed physical habitat, and 3) levels of contaminants and toxicity, under ambient flow, are low. SWAMP is following up on the results of this study with a new study designed to evaluate reference conditions at six sites for BMI and algae, physical habitat, nutrients, temperature and dissolved oxygen and the relationships between these biological indicators and stressors. Studies are also taking place in Saratoga Creek to help determine the "best attainable" conditions in urban creeks. These studies will assist in the development of biocriteria and nutrient criteria, provide perspective to watershed monitoring programs throughout the region and help to track changes due to climate change.

**Enforcement - Pending Complaints & Orders (Brian Thompson)**

The Assistant Executive Officers issued one revised administrative civil liability (ACL) complaint during the month of January with a notice for public hearing at an upcoming Board meeting. The ACL complaint proposes a fine of \$190,000 to the Vulcan Materials Company in Pleasanton (Alameda County) for violating a General Permit for Discharges from Aggregate Mining and Sand Washing Facilities to Surface Waters. A copy of the complaint can be found on our web site:

[http://www.waterboards.ca.gov/sanfranciscobay/pending\\_en.shtml](http://www.waterboards.ca.gov/sanfranciscobay/pending_en.shtml).

I have publicly noticed three Tentative Orders setting Administrative Civil Liabilities for cases in which the Water Board's prosecution team and dischargers have agreed to a settlement: the Town of Hillsborough agreed to a settlement of \$405,000; the City of San Mateo agreed to a settlement of \$950,000; and Crystal Springs Sanitation District agreed to a settlement of \$23,375. I intend to sign the agreements and issue the ACL Orders if no significant comments are received within the 30-day comment period. A copy of the Tentative Orders can be found on our web site:

[http://www.waterboards.ca.gov/sanfranciscobay/pending\\_en.shtml](http://www.waterboards.ca.gov/sanfranciscobay/pending_en.shtml))

**U.S. EPA Fines DOE for Treatment Facility Shutdown (Agnes Farres)**

Lawrence Livermore National Laboratory (LLNL) shut down groundwater and soil vapor treatment facilities in 2008 due to a budget shortfall. Staff previously reported on this topic in the June and September 2008 Executive Officer reports. Although the Department of Energy (DOE) received additional funds from Congress in July 2008, uncertainties in DOE's budget continue to impact the cleanup program. LLNL is currently operating under a continuing resolution (i.e., funding at the reduced 2008 level), and anticipates a 30% cut in funding for site cleanup when the federal fiscal year 2009 budget is passed.

Restarting the treatment facilities will require considerable resources. Some facilities were operated until they failed for lack of maintenance and now need significant repairs. DOE proposes a phased approach to restarting the facilities based on environmental and water quality threats and anticipates that the majority of treatment facilities will be fully operational by October 2009.

Last month, the U.S. EPA fined DOE for its ongoing failure to restart the treatment facilities. This failure violates the Federal Facility Agreement (FFA) between DOE, U.S. EPA, and the State. U.S. EPA is assessing a penalty of \$105,000 plus \$10,000 per week until all treatment facilities are restarted.

Pursuant to the FFA, DOE must decide whether to invoke formal dispute resolution by February 11, 2009. In the meantime, the regulatory agencies are working to optimize the schedule for restarting all treatment facilities.

**Construction Site Inspections (Christine Boschen and Wendy Katayanagi)**

The question Board staff asked ourselves in planning this year's construction site rainy season inspection campaign was, "How can we have a meaningful field presence with some 1900 active sites and just two dedicated inspectors?" We believe the answer lies in setting priorities, streamlining our process with a team approach, and getting a little help from technology and our local colleagues. This is a brief description of the inspection system we are trying out this year and the initial results to-date.

*Priorities*

Ensure we visit sites that fit into one or more of the following categories:

- Complaint/referral from internal or external "customer"
- Recent enforcement taken against site
- We have concerns about adequacy of local stormwater program oversight
- Developer applied for a "rush" 401 wetland permit this fall
- Large acreage

*Process*

Our staff services analyst, Wendy Katayanagi, tracks priority sites and builds "inspection day" lists by identifying other sites located near the priority site. On inspection days, geologists Cecil Felix and Michelle Rembaum conduct a combination of on-site and curbside inspections of the sites on the list. They return completed inspection forms and

photos to Wendy for filing and mail-out to the site contractor, site owner, and the local municipal stormwater staff.

*A little help...*

To boost our field presence, our municipal stormwater colleagues contributed inspection time at the beginning of the rainy season so that we could get a general sense of the state of construction sites in all nine Bay region counties. We use a customized database to ensure we get to priority sites and to track inspection results. Recently purchased GPS units optimize the driving route between sites. Paperless office provides a convenient and quick mechanism for communicating referral details and case history among various staff.

*Initial numbers and major findings*

Total inspections	131
Curbside	93
Onsite	3
Sites found in compliance	8
Notices of Violation issued	3; 12 to follow in next few days
Notices to Comply issued	12

Given the economic downturn, we encountered several “stalled” sites and only one “abandoned” site. For “stalled sites”, we had good responses from the contractors or developers to stabilize the sites once they were notified. The one “abandoned” site will be stabilized by the local oversight entity with the performance bond posted by the developer who filed bankruptcy.

*Next steps*

We will continue the inspection campaign through the second week of March. In addition to efficient oversight of sites enrolled in the State Board's General Construction Permit, our inspection system provides insight into how well local stormwater programs are managing sites in their area. As we find violation themes in local jurisdictions, we will communicate our concerns and take enforcement as appropriate. We will report back to you in upcoming months on our progress and lessons learned for next year's campaign.

**Bay Area Watershed Network Meetings** (Dale Hopkins and A.L. Riley)

On January 15, the Bay Area Watershed Network (BAWN) met in Oakland. Approximately 35 participants attended from around the Bay Area, representing federal, state and local agencies; NGOs; and environmental consulting firms. The purpose of the meeting was to provide an update on BAWN activities since the first general meeting in September 2006 and to develop recommendations for a workplan for the coming year. Pedro Rosado from State Senator Loni Hancock's office talked about the current state budget impasse and its effect on bond funds and some bills the Senator is working on related to environmental projects and environmental education. Marc Holmes from The Bay Institute gave an update on the proposed Statewide Watershed Program developed by the Department of Conservation. Final recommendations have been sent to Resources Secretary Chrisman, and legislation to implement the program has been developed and sent to the Governor. Judy Kelly of the San Francisco Estuary Project talked about the \$5 million grant they

received from the U.S. EPA and some of the projects that will be funded. Each of the five working groups of the BAWN gave an update on their activities: 1) Land and Water Use, 2) Policy, 3) Outreach and Education, 4) Watershed Assessment and Monitoring, and 5) IRWMP (Integrated Regional Water Management Plan) Coordination. The group discussed next steps for the working groups and came up with some specific recommendations for focus in the upcoming year. Much of the discussion was focused on the current funding crisis and how to work together to develop projects and long-term sustainable funding sources as well as how to articulate and promote the concept of "green infrastructure" (e.g., creek and floodplain restoration, stormwater retention).

On January 29, ten members of the BAWN Outreach and Education Working Group met at the StopWaste office in Oakland, including representatives of a number of educational outreach groups and Board member Jim McGrath. There were presentations on the EarthTeam program of restoration work with high school students in Richmond and the STRAW (Students and Teachers Restoring a Watershed) restoration and education program for teachers and students in Marin and Sonoma Counties. Both programs work with restoration design professionals and provide students with environmental hands-on work experience. Group discussion was centered on the need to coordinate efforts within regions and around the Bay, to serve educational gaps, and to develop criteria to measure success. The next steps for the working group are for members to coordinate more closely with local conservation corps and to meet with legislators and representatives of federal agencies to ensure that upcoming federal stimulus funds take environmental education and outreach opportunities into account when funding projects.

#### **Point Molate Property Transfer Update (George Leyva)**

On January 28, Board staff met with Dorothy Rice, State Board Executive Director, and other State Board staff to deliver to her the Governor's Office Action Request (GOAR) package for the early transfer of the remaining acreage of the former Naval Fuel Depot at Point Molate. In addition to the Executive Director, other State Board attendees included John Bishop, Deputy Director, Lisa Babcock, Supervisor of the State Board's Groundwater Protection Section, and State DOD Program Manager and staff, John Russell and Karen Bessette. Representing our staff was our Point Molate project manager, George Leyva, his supervisor, John Kaiser, and me.

At the meeting, we briefed Ms. Rice on the history of the facility and provided details on the investigatory and remedial activities performed to date. We also provided details of the contents of the GOAR package, which include documentation to support the transfer such as financial assurances that funding is in place to complete cleanup and enforcement assurances that such activities would continue under the umbrella of the site cleanup order the Board adopted last November.

Early transfer is defined as the transfer of federal property where cleanup has not yet been fully completed but for which cleanup activities are planned to be completed after transfer. To date, the City of Richmond has ownership of 381 acres of the Point Molate facility, which were transferred from the Navy in 2003, but in a situation in which cleanup had already been achieved or was not needed. The remaining "early transfer" portion consists

of 41 acres not fully cleaned up and will mark the completion of the transfer of the entire Point Molate facility to the City of Richmond.

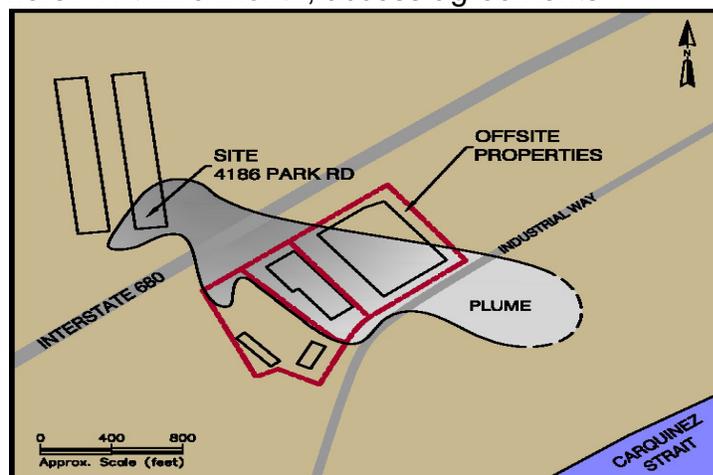
Providing that the GOAR package is found to be complete and is forwarded to the Governor's Office, we anticipate that the Governor may approve of the early transfer as early as mid-March of this year. Upon the Governor's approval, the Navy will finalize the transfer documents which includes a quitclaim to the facility. This is the first time we have prepared a GOAR package for early transfer, and we will keep the Board updated on the process.

### **Offsite Characterization of Major Solvent Plume in Benicia (Kent Ave)**

Board staff facilitated access to offsite properties to allow a Benicia discharger to successfully complete offsite characterization of a major solvent plume. A significant release of trichloroethylene (TCE) to soil and groundwater occurred as a result of manufacturing operations conducted at 4186 Park Road (Site) during the 1970s and early 1980s on a portion of the former Benicia Arsenal property. The Site is located just west of Interstate 680, uphill and upgradient from a light industrial area and the adjacent wetlands along the Carquinez Strait (see figure). The long duration of discharge, high contaminant concentrations in soil and groundwater at the Site, and the presence of sensitive receptors downgradient made it imperative to delineate the extent of contamination offsite.

Board staff began working with the discharger in February 2005 to gain access to three offsite properties to delineate the extent of the TCE plume in the light industrial area downgradient of the Site. One of these property owners voluntarily granted access to characterize soil vapor, soil, and groundwater beneath their property. Laboratory results from the samples collected showed high concentrations of TCE in groundwater and vinyl chloride in soil gas, emphasizing the importance of characterizing the two adjoining properties. After more than two years of verbal and written requests and unproductive discussion, continued resistance from the remaining two property owners led Board staff to issue letters requiring submittal of work plans for soil and groundwater characterization in lieu of a completed access agreement. When the submittal deadline passed without receipt of either a work plan or an access agreement from either owner, we issued a Notice of Violation to one of the property owners. Within a month, access agreements were completed by both property owners.

Results of the completed offsite characterization indicate that the TCE plume from the Site extends through the industrial area to the wetlands along the Carquinez Strait, as shown in the figure. The discharger is currently developing a work plan for a human health and environmental risk assessment. The completed risk assessment will be used to establish appropriate cleanup standards for both the Site and offsite areas.



### Tesoro Golden Eagle Refinery (Vic Pal)

Tesoro Refining and Marketing Company (Tesoro) has owned and operated the Golden Eagle Refinery (Refinery) since May 2002. The Refinery processes crude oil into gasoline and diesel fuels, liquefied petroleum gases, heating oil, and petroleum coke. The Refinery began operations in 1913 and occupies approximately 2,200 acres in Martinez. Working with Board staff, the company has continued to invest in programs that include upgrading petroleum storage tanks and pipelines.

The Refinery continues to make significant progress in upgrading or replacing Aboveground Storage Tanks (ASTs) to provide a high level of containment. A team comprised of individuals from multiple disciplines, including engineering, operations, maintenance, and environmental have been working together to provide a comprehensive approach to the AST program. The petroleum tank team's charter is to ensure that the Refinery is current on inspections for ASTs and to upgrade all petroleum tanks to double bottoms with leak detection within the Refinery.

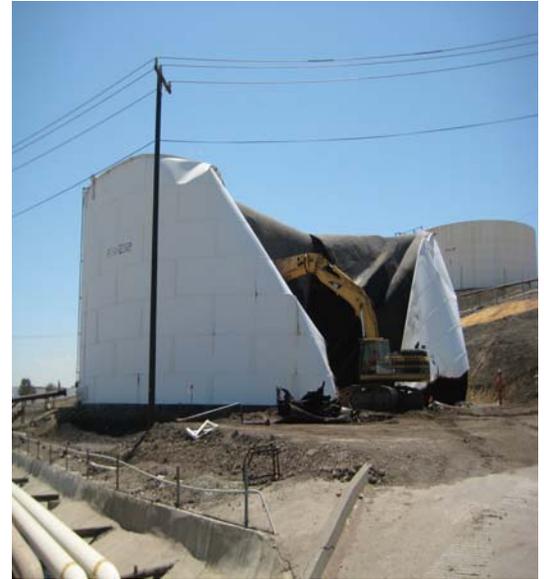


Photo 1: Demolished Tank

#### *Progress in 2008:*

Reduced the total number of ASTs from 114 in 2007 to 93 in 2008.

Cleaned 24 tanks and demolished 21 out dated tanks.

Completed construction of one new state of the art tank with four more tanks under construction.

Upgraded three existing tanks to double bottoms with leak detection.



#### *Plan for 2009-2010:*

Construct four new double bottom tanks with leak detection.

Upgrade seven double bottom tanks with leak detection.

Demolish 30 tanks (15 single bottom).

Photo 2: New Double Bottom Tank with Leak Detection

The Refinery has undertaken an initiative to upgrade petroleum pipeways and piping systems to enhance environmental protection and to provide for ongoing maintenance and monitoring of the pipelines. Several large scale projects have been completed in recent years that have included:

Replacing pipelines running under Pacheco Creek with an aboveground pipe bridge to ensure proper leak detection and containment.  
Providing containment for pipelines in close proximity to Hastings Slough to protect the environmentally sensitive waterway.  
Providing containment for pipeways in different areas of the refinery, as part of an overall program to upgrade pipeways and their containment.



Photo 3: Uncontained Pipelines –Before

Additionally, many existing pipelines have been coated and repainted to provide better protection against corrosion.

The Refinery, working with Board staff, has an on-going commitment to protect the soil and groundwater at the site. These tank and pipeway programs are a large part of this overall effort and highlight the value of coordinated regulatory and private party efforts to protect the waters of the State.



Photo 4: Upgraded pipelines –After

### **Film Festival (Dyan Whyte)**

On March 11, Board Members, staff and the public are invited to attend the first Water Board Academy Environmental Film Festival featuring the premier of *Working for Water*.

*Working for Water*, a 23-minute documentary tells the stories of a few Water Board employees, what their jobs entail and why they have chosen to work for the Water Boards. The film is intended to educate the public about the essential work performed by the Water Boards and will also be used to recruit new staff. Directed by Sally Lundburg and Elizabeth Pepin.

*Liquid Assets*, a 90-minute documentary, tells the story of essential infrastructure systems: water, wastewater, and stormwater. These systems — some in the ground for more than 100 years — provide a critical public health function and are essential for economic development and growth. Largely out of sight and out of mind, these aging systems have not been maintained, and some estimates suggest this is the single largest public works

endeavor in our nation's history. Produced and directed by Tom Keiter and Stephanie Ayanian, Penn State University.

### **In-house Training**

Our January training was on time management (organized by Lila Tang). Our February training will be on communication styles (organized by Leslie Perry and Sandi Potter). Both trainings rely on outside trainers selected and paid for by the State Board's Training Academy. This approach allows us to focus our scarce training dollars on needs identified in individual development plans.

There was a February 4 Brown Bag on the Alameda Creek Sediment Budget. In addition, on February 10, Wil Bruhns conducted his annual training, Introduction to Laws and Regulations, for new employees, for approximately the 25<sup>th</sup> time.

### **Staff Presentations**

Keith Lichten, Section Leader for one of the Board's two Enforcement Sections, is teaching the graduate seminar "The Process of Environmental Planning" this semester in UC Berkeley's Departments of Landscape Architecture and City & Regional Planning. The seminar includes a cross-section of city planning, environmental planning, and public policy graduate students, and focuses on issues in environmental planning, including public planning processes, collection and interpretation of environmental data, and the use of experts.

On January 21, Stephen Hill and Elizabeth Allen presented a regulatory update to the Bay Area branch of the Groundwater Resources Association (GRA) at Spenger's Restaurant in Berkeley. They focused on several topics: state budget woes (and implications for the Water Boards), performance measures, groundwater Basin Planning news, Brownfield MOA implementation, the recent Geotracker upgrade, vapor intrusion, and screening levels.

On January 27, Barbara Sieminski participated in the videotaping of a short feature on one of the Water Board's Brownfield cleanup sites, the Community Housing Development Corporation of North Richmond site at 1300 Filbert Street in North Richmond – an abandoned former gas station. The site is a successful Brownfield cleanup project funded jointly by the State Board's orphan site cleanup account program grants and the USEPA. Barbara described the site pollution and associated risks, and commented on the successful cooperation of all parties and organizations involved with the cleanup project. The taped material will be edited to a 2-3 minute clip for the USEPA web site.

On January 29, I made a presentation at the annual meeting of the Bay Area Clean Water Agencies highlighting our direction for wastewater regulation in the coming year. I emphasized how significant it is for all local wastewater and sewage collection agencies be ready to apply for loans or grants from the State Revolving Fund in the coming months. The draft federal economic stimulus bills propose that an additional \$450 million be added

to the State Revolving Fund for "shovel ready" projects, so it is imperative that local agencies be prepared to move quickly to secure project funding.