

ELEMENT 3: LEGAL AUTHORITY

This section demonstrates that the BCPUD possesses the necessary legal authority to comply with SWRCB Order No. 2006-0003-DWQ, as amended. This section fulfills the SWRCB Element 3 SSMP requirements.

SWRCB REQUIREMENTS FOR THE LEGAL AUTHORITY ELEMENT

Each Enrollee must demonstrate, through sanitary sewer system use ordinances, service agreements, or other legally binding procedures, that it possesses the necessary legal authority to:

- (a) Prevent illicit discharges into its sanitary sewer system (examples may include I/I, stormwater, chemical dumping, unauthorized debris and cut roots, etc.);
- (b) Require that sewers and connections be properly designed and constructed;
- (c) Ensure access for maintenance, inspection, or repairs for portions of the lateral owned or maintained by the Public Agency;
- (d) Limit the discharge of fats, oils, and grease and other debris that may cause blockages, and
- (e) Enforce any violation of its sewer ordinances.

THE LEGAL AUTHORITY GOVERNING THE BCPUD'S SEWER SYSTEM

In the late 1970's the San Francisco Regional Water Quality Control Board determined that the BCPUD's collection system had serious infiltration and inflow problems, which caused capacity issues for the wastewater treatment facility. In response to these concerns, in 1985 the BCPUD adopted a resolution prohibiting illicit discharges into its sanitary sewer system (Resolution 257) and a resolution establishing a moratorium on new sewer connections (Resolution 259).

In 1989, the BCPUD adopted Resolution 312, which sets forth Service Termination Procedures for sewer users.

In 1994, the BCPUD adopted Ordinance 29, which provides for a comprehensive system of wastewater regulation. Ordinance 29 rescinded all previous ordinances governing sewer usage; however, Ordinance 29 does not rescind the sewer moratorium set forth in Resolution 259.

In 2004, the BCPUD adopted Resolution 500, which identifies two exceptions to the sewer moratorium.

In 2009, the BCPUD requested a legal opinion from counsel as to whether any revisions or amendments were necessary to Ordinance 29 to ensure that it meets the requirements of SWRCB Order No. 2006-0003-DWQ.

In 2010, the BCPUD adopted Ordinance 39, which amends Ordinance 29 specifically to ensure that the BCPUD's comprehensive system of wastewater regulation meets all of the requirements of SWRCB Order No. 2006-0003-DWQ and provides the BCPUD with all of the necessary legal authority to implement the SSMP. A true and correct copy of BCPUD Ordinance 29, as amended by BCPUD Ordinance 39, is presented in Appendix 2.