

Wetland and Riparian Protection Resolution

April 15, 2008 Agenda Item 9



CALIFORNIA

Water Boards

STATE WATER RESOURCES CONTROL BOARD

REGIONAL WATER QUALITY CONTROL BOARDS

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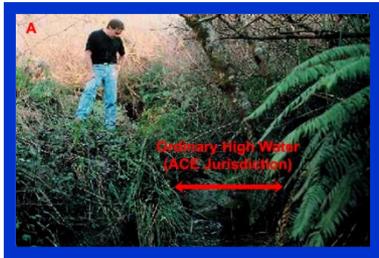
The Need for a New Policy

- **To promote efficiency, effectiveness and consistency among Water Board programs**
- **UCLA study shows State is losing “functional” wetlands at an increasing rate.**
- **SWANCC and more recent U.S. Supreme Court decisions have resulted in unstable, unprotective Federal jurisdiction.**
- **Federal policy, not science, defines wetlands as requiring all three criteria: hydrology, soils, and plants.**
 - **Many Calif. Wetlands demonstrate fewer than 3 criteria.**
- **Expected climate change stress on watersheds requires protection measures now.**
 - **Frequent & severe winter storms and floods**
 - **Drought**
 - **Sea level rise**

What is at risk without clear policy guidance?

Loss of functional riparian areas outside of Federal waters





What is at risk without clear policy guidance?

Loss of isolated wetlands



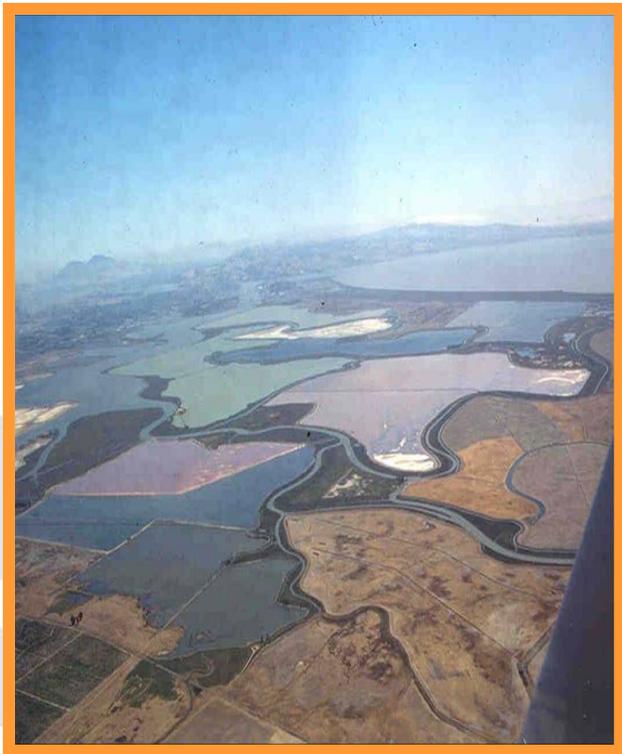
What is at risk without clear policy guidance?

Loss of watershed function of headwater channels



What is at risk without clear policy guidance?

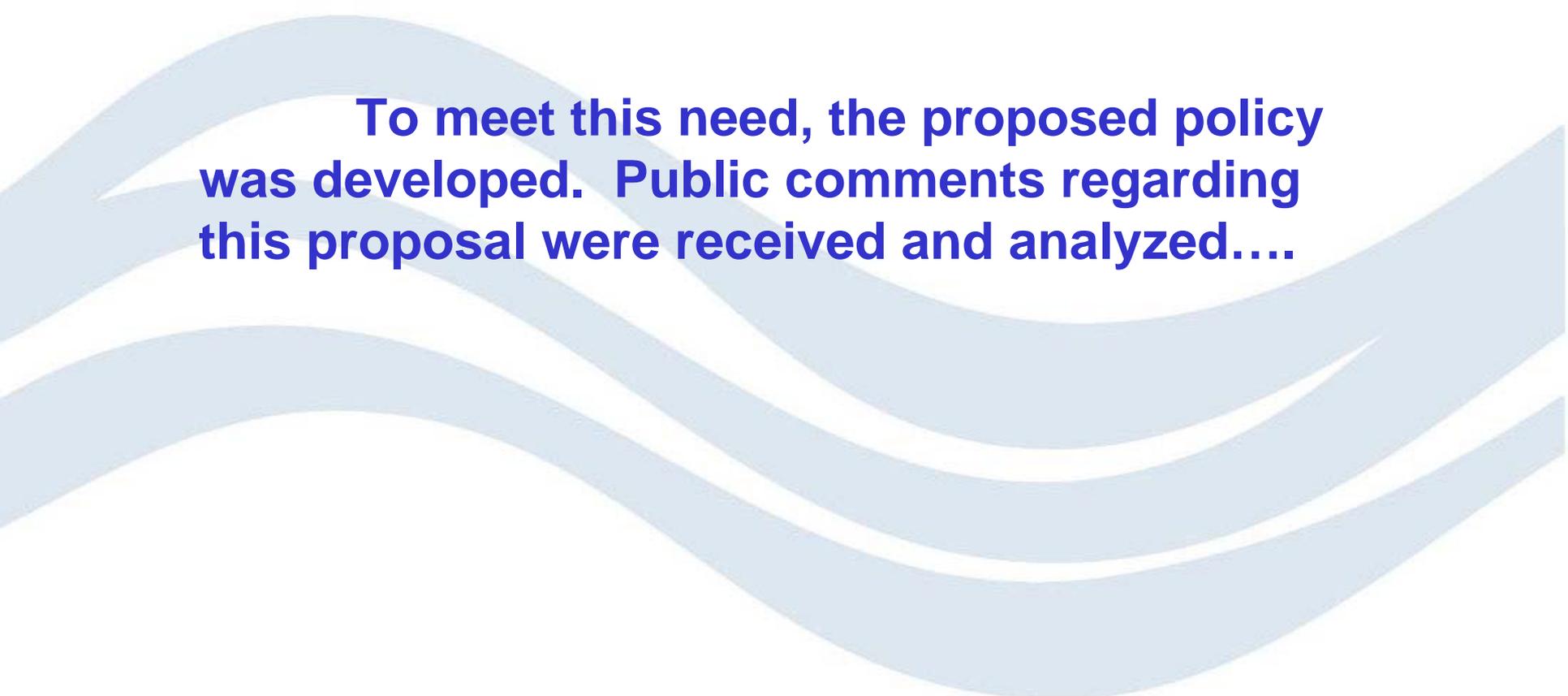
Loss of atypical or damaged wetlands



What is at risk without clear policy guidance?

Loss of these vulnerable waters of the state and their associated beneficial uses.



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To meet this need, the proposed policy was developed. Public comments regarding this proposal were received and analyzed....

Summary of Comments

Number of Comments	Affiliation Category	Support	Support if Amended	Concerned	Oppose
5	General Public	1	1	2	
2	Regional Board	1			
3	State/Fed Agencies	2		1	
6	City/Counties	2	1	3	
6	Environmental Groups	6			
4	Building/Development Groups		1	1	2
2	Rural or Ag Organizations		2		
	Total	11	4	5	2

Concerns raised by respondents about the proposed Statewide Policy:

- **Concern: Overlapping jurisdictions/duplication of effort with other agencies.**

**Water Board staff will seek permit streamlining;
Our focus is water quality.**

- **Concern: Unnecessary new program...use existing regulatory authorities.**

**Need to replace unstable federal program
with a stable State program.**

- **Concern: Watershed approach will add costs to
State and regulated community.**

**Main application would be in cumulative effects analysis
that is already required in the CEQA review.**

Concerns raised by respondents about the proposed Statewide Policy (continued):

- **Concern: Separate Regional and State efforts**
Joint development team to ensure consistency
- **Concern: Over-extension of regulatory authority**
Under Porter-Cologne, State Water Board has the authority to regulate “any activity or factor which may affect the quality of the waters of the state”.
- **Concern: Corps’ wetland definition other than the U.S. Army Corps’ is unnecessary and will add cost to the State and regulated community.**
 - **Corps definition leaves out valuable California wetland types**
 - **Staff Proposal will utilize Corps delineation criteria.**
 - **State may not require all criteria to be present in all cases.**
 - **This is consistent with other state agencies (e.g., DFG, Coastal Comm.).**

Jurisdiction

- **The Porter-Cologne Water Quality Control Act**
- **Under P-C, “water quality control” means the regulation of “any activity or factor which may affect the quality of the waters of the state”.**

Policy Framework – 3 Phases

Phase 1: Adoption by mid-2009:

- **Will consider dredge/fill discharges but not other impacts**
- **Wetland definition to include all California wetlands, based on Corps delineation methods**
- **Wetland protection measures based on CWA Section 404 (b)(1) guidelines**
- **Guidance on wetland tracking and assessment**

Policy Framework (continued)

Phase 2:

- **Other discharge activities**
- **Wetland beneficial use definitions**
- **Wetland water quality objectives**
- **Performance criteria for evaluation of water quality objectives**

Policy Framework (continued)

Phase 3:

- **Riparian area protection,
including stream channel, bed and banks**
- **Riparian beneficial use definitions**
- **Riparian water quality objectives**
- **Performance criteria for evaluation
of water quality objectives**

Plan and Schedule

- **Wetland Development Team will work together to bring forward both Region 1 & 2's Basin Plan Amendments and the Statewide Wetland and Riparian Area Protection Policy.**
- **Elements of Region 1 & 2's policy will be considered for Statewide adoption.**
- **Phase 1 of the Statewide Policy due mid-2009**
- **Phases 2 & 3 will be rolled-out following Phase 1 over a four year period to allow sufficient time for stakeholder input, analysis and program support.**

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Changes were made to the original resolution by the Development Team in response to comments received.



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