



May 20, 2011

Mr. Thomas Howard, Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-2000

Mr. Charles R. Hoppin, Chair  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-2000

**Re: NextEra Energy Resources Comments on State Water Control Board Wetland Area Protection Policy and Dredge and Fill Regulations**

Dear Mr. Hoppin and Mr. Howard:

NextEra Energy Resources (NextEra) is a leading clean energy provider with 18,886 MW of generation capacity operating in 26 states and Canada. More than 90 percent of NextEra's electricity is generated by clean fuels. In addition, NextEra is the nation's leader in wind energy generation and operates the two largest solar thermal fields in the world. Furthermore, we are an affiliate of a regulated utility, Florida Power & Light Company located in southern Florida. In California, NextEra affiliates own and/or operate 700 MWs of wind, 310 MWs of concentrated solar thermal, and 500 MW of combined cycle natural gas generating capacity.

NextEra is concerned with the wetland definition proposed by the State Water Resources Control Board in the Notice of Preparation of Environmental Impact Report for the Wetland Protection Policy and Dredge and Fill Regulations (Wetland Proposal). Our company supports and agrees with the comments submitted by the Utility Water Act Group (UWAG). NextEra does not feel the California should redefine the term wetland. The implications of California having specialized wetland delineation procedures that differ from the federal process creates a higher level of complexity than is necessary or warranted. To re-emphasize the comments provided by UWAG, NextEra believes the justification for the proposed wetlands definition changes:

- 1. Introduce significant regulatory uncertainty by creating a dueling definition to that used by the federal government**
- 2. Do not adequately explain why the use of the federal wetland definition is not feasible (specifically the United States Army Corp of Engineers and EPA definitions)**
- 3. Fail to justify why duplicative regulation of wetlands subject to federal regulation is justified or necessary**

The addition of a state specific wetland definition would cause some facilities to delineate each property according to two separate and unique definitions. This would in turn require a facility to have separate management practices, separate permits, and maintain multiple

sets of records. There will be inherent cost increases to each facility and could potentially discourage new capital investment projects within the state. The analysis that supports the proposed wetland definition utilized does not provide adequate justification to change the federal definition of a wetland. Please refer to the specific arguments for this position contained in the comments submitted to you by UWAG.

For these reasons, NextEra Energy Resources requests that the State Board reject any State definition of wetlands that departs from, or conflicts with the long-standing federal wetland delineation criteria. To the extent the State Board is determined to move forward with a State wetland definition, we ask that any action be delayed until after the EPA and USACE finalize the federal government's recently proposed Clean Water Act guidance and an evaluation of the basis and need for an additional, duplicative State program is performed by the State Board. In such case, however, the State Board should withdraw the proposed State wetland definition pending finalization of the federal guidance and further investigation because the regulatory uncertainty associated with the potential definition is already causing confusion among stakeholders and the potential for increased costs and delay in projects.

Sincerely,



Kyle Boudreaux  
Environmental Issue Management, Western Region  
NextEra Energy Resources

cc: Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100, Sacramento, CA 95812-2000

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