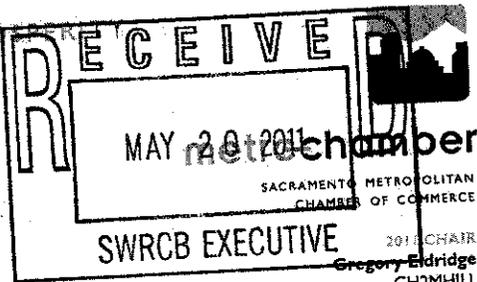


FOSTERING REGIONAL ECONOMIC PROGRESS

May 20, 2011

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



**Re: Proposed Wetland Area Protection Policy and Dredge and Fill Regulations**

Dear Ms. Townsend:

The Sacramento Metro Chamber (the Chamber) submits these comments on the State Board's Initial Study prepared under the California Environmental Quality Act (CEQA) for the State Board's Wetland Area Protection Policy and Dredge and Fill Regulations. The Chamber is the largest, oldest and most prominent voice of business in the greater Sacramento area. Representing over 2,000 member businesses and business organizations in the six-county Sacramento region, the Sacramento Metro Chamber serves as the region's leading proponent of regional cooperation and primary advocate on issues affecting business, economic development and quality of life.

With respect to the Initial Study and the proposed environmental document (Environmental Impact Report), the Chamber is concerned that the State Board is not correctly addressing the policy's potential environmental and economic effects. For instance, the Initial Study suggests that the State Board currently underestimates the policy's effects on air quality, green house gas emissions, land use and planning, population and housing, transportation/traffic, and public services. While the Initial Study identifies and discusses 18 environmental factors that could be potentially affected by the "adoption" of the proposed policy, it fails to adequately consider cumulative impacts or to properly identify programwide mitigation measures. For example, in discussing the "Population and Housing" factor, the Initial Study briefly states that the project could directly or indirectly "induce substantial population growth" in an area and could "displace substantial numbers of people or existing housing, necessitating the construction of replacement housing elsewhere." However, the Initial Study fails to discuss further any cumulative impacts or to analyze potential areas that are most likely to be impacted. Furthermore, the discussion of programwide mitigation measures appears insufficient. The Initial Study only includes specific examples of potential or actual mitigation measures in six of the 18 discussions of environmental factors (aesthetics, hazards and hazardous materials, hydrology/ water quality, noise, public health vectors, and transportation/traffic). The discussions of the other twelve environmental factors only include stock language stating that "future actions would be required to undergo project-level CEQA review, [during which] appropriate mitigation measures w[ould] be analyzed and implemented...." The Board should be more thorough in its analysis of programwide mitigation measures and more specific in its recommendations.

1ST VICE CHAIR  
**John Frisch**  
Cornish & Carey Commercial  
Newmark Knight Frank

2ND VICE CHAIR  
**Martha Clark Lofgren**  
Brewer Lofgren LLP

IMMEDIATE PAST CHAIR  
**Randy Sater**  
StoneBridge Properties

COMMUNITY DEVELOPMENT  
**Chris Delfino**  
Downey Brand LLP

JOBS & BUSINESS GROWTH  
**Bill Yee**  
Western Contract

MARKETING & COMMUNICATIONS  
**Gordon Fowler**  
3fold Communications

PROGRAMS & EVENTS  
**Kathy McKim**  
AT&T

PUBLIC POLICY  
**Maggie Townsley**  
ICF International

SMALL BUSINESS  
**Tim Cahill**  
Charles C. Bell, Inc.

AT-LARGE REPRESENTATIVES  
**James Beckwith**  
Five Star Bank

**Elisabeth Brinton**  
SMUD

**Michael O'Brien**  
Sacramento Magazines Corporation

**Beverly "Babs" Sandeen, Ph.D.**  
University of California, Davis

**Shelly Schlenker**  
Mercy/CHW

METRO PAC  
**Ardie Zahedani**  
RCH Group

LEGAL COUNSEL  
**Sheila Carroll**  
Carroll & Associates, PC

TREASURER  
**Warren Kashiwagi**  
Perry-Smith LLP

PRESIDENT & CEO  
**Matthew Mahood**  
Sacramento Metro Chamber



**metrochamber**

SACRAMENTO METROPOLITAN  
CHAMBER OF COMMERCE

2011 CHAIR

**Gregory Eldridge**  
CH2MHILL

1ST VICE CHAIR

**John Frisch**  
Cornish & Carey Commercial  
Newmark Knight Frank

2ND VICE CHAIR

**Martha Clark Lofgren**  
Brewer Lofgren LLP

IMMEDIATE PAST CHAIR

**Randy Sater**  
StoneBridge Properties

COMMUNITY DEVELOPMENT

**Chris Delfino**  
Downey Brand LLP

JOBS & BUSINESS GROWTH

**Bill Yee**  
Western Contract

MARKETING & COMMUNICATIONS

**Gordon Fowler**  
3fold Communications

PROGRAMS & EVENTS

**Kathy McKim**  
AT&T

PUBLIC POLICY

**Maggie Townsley**  
ICF International

SMALL BUSINESS

**Tim Cahill**  
Charles C. Bell, Inc.

AT-LARGE REPRESENTATIVES

**James Beckwith**  
Five Star Bank

**Elisabeth Brinton**  
SMUD

**Michael O'Brien**

Sacramento Magazines Corporation

**Beverly "Babs" Sandeen, Ph.D.**  
University of California, Davis

**Shelly Schlenker**  
Mercy/CHW

METRO PAC

**Ardie Zahedani**  
RCH Group

LEGAL COUNSEL

**Sheila Carroll**  
Carroll & Associates, PC

TREASURER

**Warren Kashiwagi**  
Perry-Smith LLP

PRESIDENT & CEO

**Matthew Mahood**  
Sacramento Metro Chamber

The Board has received a number of comments on the proposed policy over the last few years. Namely, The Kawea Delta Water Conservation District (July 16, 2010 and January 17, 2011) and a coalition of organizations (February 3, 2010) wrote to the Board and expressed concerns. The Chamber specifically references those letters and incorporates them herein. The Chamber's concerns regarding the proposed policy are much the same.

The proposed policy presents the real potential of largely unnecessary and duplicative regulatory policies which will likely have a significant negative impact on business and job development in California. The effects of the proposed policy are especially heightened by the current economic climate in California, and the State's fiscal difficulties. The State's regulation of "wetlands" and riparian areas is duplicative given the already existing regulation of those features by the Regional Boards, the California Department of Fish and Game, the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and cities and counties throughout California.

The policy as originally proposed was to regulate wetland resources no longer regulated by the federal government after the Supreme Court decision in *Solid Waste Agency of Northern Cook County v. USACE, (SWANCC)*. These wetlands, sometimes referred to as "gap" wetlands, were the initial focus of protection by the State. Since then the policy has expanded and now proposes to sweep into additional regulatory processing all waters of the State including those regulated as "waters of the United States." This will undoubtedly result in substantial additional permit processing time and costs even if the proposed State policy is entirely consistent with federal regulations. However, the proposed policy is inconsistent with regulation under the federal Clean Water Act in a number of important ways. Additionally, the original concern by the State, namely, to provide protection to "gap" wetlands, has been made largely irrelevant with the passage of time. For instance, the federal agencies responsible for protecting the nation's wetlands are currently proposing "Guidance Regarding Identification of Waters Protected by the Clean Water Act." 76 Fed. Reg. 24479, May 2, 2011. According to the EPA and the Corps, "under this proposed guidance the number of waters identified as protected by the Clean Water Act will increase compared to current practice and this improvement will aid in protecting the Nation's public health and aquatic resources."

Implementation of the project with respect to wetland "avoidance" measures may result in piecemeal wetland avoidance to the detriment of regional planning (e.g., the SACOG "Blueprint"), habitat conservation planning (based on landscape level habitat preservation in lieu of on-site avoidance), air quality, transportation/traffic public service, and green house gas emissions (increased development further away from existing development and transportation hubs).

Despite the long-standing definition of a "wetland" under the federal regulatory regime, the State proposes to adopt a new definition which will result in inconsistent and confusing regulation. The economic impact of this one issue will be significant; a different definition at the state level will result in multiple layers of biological assessments and environmental review. Planning and development costs for both public and private projects will undoubtedly increase significantly. It is

FOSTERING REGIONAL ECONOMIC PROSPERITY

unclear whether any additional environmental protection will result under the State's proposed definition.

The Chamber is concerned with the manner in which public comment and input has been conducted. While there have been public "stakeholder" meetings, these have been by invitation only and have not reflected the complete picture of the potential effects of this policy. We are informed by stakeholder members that it is not clear that input and comments from those stakeholders are being integrated into the policy. Further, to the extent that comments are not being incorporated, there has been little or no explanation as to why comments are being rejected.

The Chamber and its members look forward to a continuing and open dialogue regarding this proposed policy.

Thank you for the opportunity to comment.

Sincerely,



Matthew R. Mahood  
President & CEO



**metrochamber**

SACRAMENTO METROPOLITAN  
CHAMBER OF COMMERCE

2011 CHAIR

**Gregory Eldridge**  
CH2MHILL

1ST VICE CHAIR

**John Frisch**  
Cornish & Carey Commercial  
Newmark Knight Frank

2ND VICE CHAIR

**Martha Clark Lofgren**  
Brewer Lofgren LLP

IMMEDIATE PAST CHAIR

**Randy Sater**  
StoneBridge Properties

COMMUNITY DEVELOPMENT

**Chris Delfino**  
Downey Brand LLP

JOBS & BUSINESS GROWTH

**Bill Yee**  
Western Contract

MARKETING & COMMUNICATIONS

**Gordon Fowler**  
3fold Communications

PROGRAMS & EVENTS

**Kathy McKim**  
AT&T

PUBLIC POLICY

**Maggie Townsley**  
ICF International

SMALL BUSINESS

**Tim Cahill**  
Charles C. Bell, Inc.

AT-LARGE REPRESENTATIVES

**James Beckwith**  
Five Star Bank

**Elisabeth Brinton**  
SMUD

**Michael O'Brien**  
Sacramento Magazines Corporation

**Beverly "Babs" Sandeen, Ph.D.**  
University of California, Davis

**Shelly Schlenker**  
Mercy/CHW

METRO PAC

**Ardie Zahedani**  
RCH Group

LEGAL COUNSEL

**Sheila Carroll**  
Carroll & Associates, PC

TREASURER

**Warren Kashiwagi**  
Perry-Smith LLP

PRESIDENT & CEO

**Matthew Mahood**  
Sacramento Metro Chamber

