

Wetland/Riparian Policy

Deadline: 4/19/07 12 noon

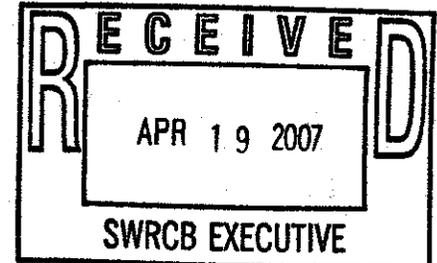
From: <Daniel_Strait@fws.gov>
To: <commentletters@waterboards.ca.gov>
Date: Thu, Apr 19, 2007 9:59 AM
Subject: Comments on Proposed Wetland and Riparian Area Protection Policy

To whom it may concern:

The Conservation Partnerships Program of the California/Nevada Operations office of the U.S. Fish and Wildlife Service (Service) has reviewed the State Water Resources Control Board's Proposed Wetland and Riparian Area Protection Policy, and provides the following comments:

The Service supports adoption of Alternative 3: Develop a New State Policy to Regulate Impacts of Dredge or Fill Material Discharges on Wetlands and Riparian Areas. The alternative would improve the ability of the State and Regional Water Boards to protect the beneficial uses of the waters of the State, and would help assure adequate protection of wetland and riparian areas. Adequate protection of those areas is in question as a result of the U.S. Supreme Court's *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC)* decision which resulted in a lack of clarity of the existing regulatory framework between Federal and State laws regarding wetland and riparian area protections. The Alternative would go a long way toward improving how wetland and riparian compensatory mitigation requirements are established, and how mitigation and performance measures are implemented and monitored. Given those improvements, the proposed alternative would provide significant new benefits for wetland and riparian area protection, as well as providing increased consistency in the definition of wetlands and riparian areas that will be a valuable means of evaluating wetland and riparian area condition.

The Service recommends against the adoption of Alternatives 1 and 2 in that they do not go far enough to provide necessary protections for the beneficial uses of the waters of the State. Furthermore, the Service recommends against the adoption of Alternative 4 because it goes too far in its attempt to improve protection of wetland and riparian areas. While Alternative 3 provides most of the same improved wetland and riparian area protections as Alternative 4, Alternative 4 goes too far in that it could result in the establishment of new regulations on the restoration, enhancement, and routine maintenance of wetland and riparian habitats and activities involving the control and eradication of invasive species. The Service and its numerous partners have a variety of programs and projects in which financial and technical assistance is provided to restore and improve wetlands and riparian habitats on private and government-owned lands. Those projects provide substantial benefits to migratory birds, threatened and endangered species, anadromous fish, and other fish and wildlife resources. Most of those projects include land, vegetation clearing, and invasive species control components. If the State Board was to adopt Alternative 4, which likely would result in the institution of new wetland and riparian area "protection" policies and the placement of new regulatory layers on wetland and riparian area improvement projects, the increased regulatory burden would likely result in fewer habitat improvement projects and fewer acres improved. Any improvement that would result from Alternative 4, above and beyond what which would also occur under Alternative 3, could be negated by the reduced number of acres, particularly on private lands, that would have otherwise have occurred



prior to the adoption of Alternative 4. For those reasons the Service is opposed to the adoption of Alternative 4.

This completes the Service's comments at this time. Thank you for the opportunity to comment on the proposed policy.

Daniel Strait
Grant Programs Coordinator
Conservation Partnerships Program
California/Nevada Operations Office
US Fish and Wildlife Service
2800 Cottage Way, W-2606
Sacramento, CA 95825
916-414-6456
916-414-6486 fax