



COUNTY OF SISKIYOU

Board of Supervisors

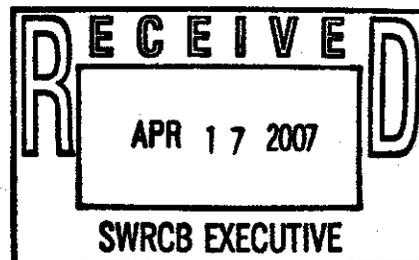
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Wetland/Riparian Policy
 Deadline: 4/19/07 12 noon

April 17, 2007

Ms. Song Her
 Clerk to the Board
 Executive Office
 State Water Resources Control Board
 P.O. Box 100
 Sacramento, CA 95812-0100



RE: Comment Letter-Wetland and Riparian Area Protection Policy

Dear Ms. Song Her,

Thank you for the opportunity to provide comments on the State of California's proposed development of a "Statewide Wetland and Riparian Area Protection Policy." We are indeed proud and protective of beauty and abundance of the natural resources that are an inherent part of Siskiyou County, and in that vein, the County has been an active participant in the North Coast Regional Water Quality Resource Board's efforts to formulate a version of the Wetland and Riparian Area Protection Policy.

It is critical that any type of policy development process have a "ground up approach" to formulation. Local and regional input is an essential component of the development process, and provides a more definite opportunity for success. The "top down process" often addresses a single solution . . . the old "one size fits all," and it is not workable for a state the size of California, nor even a County like Siskiyou that comprises approximately 6,300 square miles.

COMMENTS:

1. The exact nature of the kind of wetlands and riparian areas that are no longer regulated under the Clean Water Act should be described. Where, specifically, is there a "lack of clarity"? Where, specifically, is there a "lack of statewide consistency" in the definition of wetlands and riparian areas? What are the inconsistencies? Is it the intent of the

Jim Cook
 District 1

La Vada Erickson
 District 2

Michael Kobseff
 District 3

Bill Overman
 District 4

Marcia H. Armstrong
 District 5

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policy to cover riparian areas that are above the "ordinary high water mark"? It should be noted as non-navigable rivers under the Rivers and Harbors Act, many of our tributaries have no "high water mark." We are very concerned that clarity will be lacking in the new policy being developed and that the new policy will not allow for actions to provide for the protection of all beneficial uses and also to provide for implementation to be developed in a site-specific manner. All beneficial uses need to be protected in a balanced way under any new policy. We are also concerned that the state is using a few acres of disclaimed federal jurisdiction to attempt to regulate vast new areas of private land. Also, what about Scott Valley, where the floodplain can be almost the entire valley? What is a riparian area there if land is periodically inundated in a 25 year flood event?

2. The Informational Document provides an estimate that 91% of historic wetland acreage has been lost and that between 85%-98% of historic riparian areas have been lost. What definitions are being used in these estimates? This acreage should be substantiated. Is it the intent of the new policy to make up for that loss simply by regulation of the remaining acreage? The "...manner that fosters creativity, stewardship and respect for private property" should be specifically described in developing the way in which the state ensures "...no overall net loss..." and achieves "a long-term net gain" in wetlands acreage and values. Historic records show that much of Scott Valley was swampland. An area outside of Etna below the brewery was a lake that was drained. Throughout the Valley there were beaver ponds that backed up water into wetlands, including the present area where Fort Jones lies. Further on down the River near Quartz Valley, land settlement fell under the Swampland Acts. This could have widespread impact. This would also have a huge impact on Tulelake and Lower Klamath Lake areas.
3. In the Document, the SWB States that a 2006 study (Ambrose et al. 2006) revealed that on average the quality of created, restored, and enhanced wetlands achieved through mitigation was lower than the quality of intact, reference wetlands. This implies that going back to historic conditions is the only way to improve wetland functions and values. Is this the intent? What about the other beneficial uses, and how can projects be permitted without taking away all of the uses of those areas? Does this mean that the Klamath Reclamation Act would be reversed?

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4. A new policy should also consider the manner and methods of implementation of that policy. The new policy must describe a "regulatory context" that allows for actions that can provide for all beneficial uses of the specific waters. There are such varying physical, on-the-ground conditions that this can best be done through ground-level up integrated regional water management planning, and invoking collaboration on a site-specific or watershed level basis with stakeholders, agencies, and local governmental units. This is by far the most productive and focused method of finding the best solutions to wetland and riparian protection. Agencies cannot lose their statutory powers and could always step in if efforts are not being made. We need management flexibility for such programs as the walking wetlands in Tulelake.
5. "Compensatory mitigation" is not adequately described and defined in sufficient detail to understand what this requirement would involve. It is unclear whether or not this is "wetlands mitigation banking," where a developer pays a conservancy to buy land elsewhere and maintain it as permanent wetlands in conservation easements. This practice has a disproportionate impact on land use and economic development in rural areas and raises issues of social justice.
6. Four policy alternatives have been proposed. However, we think the State Water Board should first and foremost separately consider the following:
 - Revise definitions to ensure consistencies.
 - Develop and implement a process for determining and understanding ecological values of wetlands and riparian areas that are not now understood.
 - Re-evaluate and revise the geographical areas that will be regulated.
 - Develop policies and processes that will balance and resolve conflicting demands from the various beneficial uses.
 - Address the issues of property rights and concerns over a "takings policy and philosophy."

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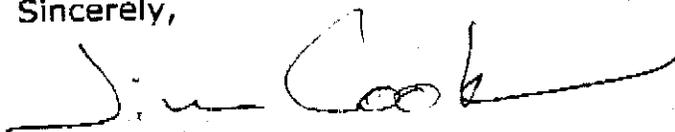
- worked successfully in this area – as opposed to heavy handed regulation.
- Develop and evaluate data related to historic conditions, and use that information to consider wetland and riparian mitigation before considering new policy alternatives.

As stated earlier, certain regional boards across the State have been working on a Stream and Wetlands System Protection Policy, e.g., the North Coast Region (for which scoping comments on this issue are available). The State Water Board should utilize the information that has already been developed, and present its own analysis of those regional efforts and scoping comment.

It is not clear from the Document how the SWB's policy will be affect regional policies in development. A clear picture of how the State and Regional policies will interface has not been put forward. Context and direction is needed before policies are developed.

If, however, the SWB will choose a policy alternative, we recommend Alternative 1 to include a schedule of actions to accomplish the needed studies and analyses above in order to consider other alternatives.

Sincerely,



Jim Cook, Chair
Siskiyou County Board of Supervisors