



California Regional Water Quality Control Board San Diego Region



Linda S. Adams
Secretary for
Environmental Protection

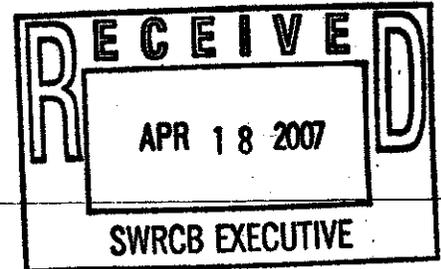
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9174 Sky Park Court, Suite 100, San Diego, California 92123-4353
(619) 467-2952 • Fax (619) 571-6972
<http://www.waterboards.ca.gov/sandiego>

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

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



FROM:

John H. Robertus
John H. Robertus
Executive Officer

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

DATE: April 18, 2007

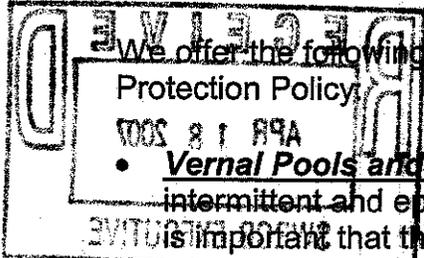
SUBJECT: COMMENT LETTER –
PROPOSED WETLAND AND RIPARIAN AREA PROTECTION POLICY

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) has reviewed the "Wetland and Riparian Area Protection Policy Scoping Document" dated March 2007. The San Diego Water Board strongly supports the strongest and broadest possible protection for wetland and riparian areas. Since it appears that Alternative 4 ("Develop a New State Policy to Regulate a Variety of Discharges and Activities That Impact Wetlands and Riparian Areas") would provide the strongest and broadest protection of the four alternatives identified in the scoping document, the San Diego Water Board strongly supports Alternative 4.

Alternative 4 would best fulfill the need for a comprehensive new statewide policy that provides a foundation for addressing activities that impact wetland and riparian areas. Alternative 4 would include the following four elements essential to such a policy:

1. Provide guidance for protecting wetland, riparian, and other waters no longer regulated under the federal Clean Water Act;
2. Provide state definitions of wetland and riparian areas that are fully protective of these waters, and recognizes their critical role in protecting water quality;
3. Provide consistent definitions of statewide beneficial uses for wetland and riparian area functions; and
4. Establish a comprehensive framework, including minimum statewide requirements for evaluation of dredge or fill discharges and other activities that may impact wetland and riparian areas. These requirements would

address cumulative impacts, functional assessment, mitigation, and performance standards for wetland and riparian areas.



We offer the following specific comments on the proposed Wetland and Riparian Area Protection Policy:

- **Vernal Pools and Intermittent and Ephemeral Streams:** Since vernal pools and intermittent and ephemeral streams provide and support important beneficial uses, it is important that they be included within the scope of the policy and for the policy to clearly indicate they are within its scope.
- **Beneficial Use Designations / Definitions and Waters of the State / Waters of the United States:** Although wetland and riparian areas may perform certain water purification functions, federal regulations specify that neither waste transport nor waste assimilation can be a designated use of waters of the United States [40 CFR 131.10 (a)]. It is important that the policy make clear that all components of treatment systems used to achieve water quality standards and/or meet requirements of waste discharge requirements must be placed entirely outside of waters of the State and waters of the United States. It is also important that the policy not allow wetland or riparian areas to be converted to, designated as, or considered merely as components of systems for waste conveyance, waste treatment, and/or drainage that are not waters of the State or waters of the United States. At the same time, it is important that the policy recognize that, in at least some cases, anthropogenically modified wetland and riparian areas are components of municipal separate storm sewer systems - as well as waters of the State and/or waters of the United States. It is also important that the policy not allow wetland or riparian areas to be modified (e.g., as a result of filling) so that they cease to be waters of the State and/or waters of the United States. Finally, it is important that the policy not allow designated beneficial uses of wetland or riparian areas to be deleted or "downgraded" as a result of anthropogenic modifications - or to allow anthropogenic modifications to cause or contribute to the loss or degradation of beneficial uses of wetlands or riparian areas.
- **Relationship between Proposed Policy and Regional Water Board Basin Plans**
It is not clear what is meant by statements in the scoping document indicating that none of the alternatives would "override any existing Regional Water Board Basin Plans." It is important that the policy serve as a "floor" not a "ceiling" for the protection of wetlands and riparian areas. It is also important that the policy be written in a manner that provides the strongest and broadest possible protection for wetlands and riparian areas without need for revision of Regional Water Board Basin Plans. If revision of Basin Plans were necessary in order for the Regional Water Boards to implement the policy, further losses and degradation of wetlands

and riparian areas likely would occur, due to the time and costs associated with making such revisions.

We appreciate this opportunity to comment on the proposed Wetland and Riparian Area Protection Policy. If you have any questions, please contact Linda Pardy at (858) 627-3932 or Bruce Posthumus at (858) 467-2964.

JHR:bwj