



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Ecosystem Conservation Division/Water Branch
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Sacramento, CA 95811
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EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



January 21, 2014

Mr. Mark Cady
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Dear Mr. Cady:

Please accept these comments from the California Department of Fish and Wildlife (Department) on the December 2013 Proposed Waste Discharge Requirements for discharges from irrigated lands within the Sacramento River Watershed (Sacramento River Watershed Order). These comments follow previous written and oral comments by federal (United States Fish and Wildlife Service and Bureau of Land Management) and private (Grassland Water District) wetland managers regarding impact of the Irrigated Lands Regulatory Program on managed wetlands. The Department generally supports all of those comments which were in regards to current efforts to regulate managed wetlands similar to irrigated agricultural lands.

The referenced previous correspondences establish that:

1. Managed wetlands provide food and habitat for millions of resident and migratory birds of the Pacific Flyway each year and provide a host of public trust benefits including habitat for listed species, improved water quality, and flood management.
2. Management of these lands is fundamentally different from that of commercial agriculture. Goals and objectives for managed wetlands include sustainable water management and use; establishment and maintenance of aquatic and terrestrial fish and wildlife habitat, legislatively mandated crop depredation for surrounding agricultural lands, water quality improvement, and visitor services.
3. The Order states that managed wetlands are considered "waste dischargers" while its supporting documentation claim that creating and enhancing wetlands are suitable for mitigation. No scientific evidence has been provided showing managed wetlands discharge waste or cause water quality impairments.
4. Efforts to include managed wetlands into the existing structure of Waste Discharge Requirement templates and control plans are hampered by this fundamental difference in land management.

5. Limited funding available to state and federal managed wetlands would best be utilized to address overall water quality goals and objectives as they apply to operation and management of these unique properties.

While there has been some progress in recognizing the fundamental differences between commercial agriculture and managed wetlands within the context of the developing Long-Term Irrigated Lands Regulatory Program (LT-ILRP) and templates (e.g., nitrogen management plans are no longer required for parcels that are solely operated as a managed wetland), we believe those fundamental differences warrant an approach for managed wetlands that takes into consideration the unique landscape, flood management, groundwater recharge, habitat, mitigation, and other public trust benefits these lands provide to the State of California.

From 1982 until 2003, managed wetlands were categorically exempt from waste discharge requirements. In 2003, the Department responded to a Board proposal to include managed wetlands in conditional waivers of waste discharge requirements for irrigated lands. The Department submitted comments to the Board in May 23, 2003 stating that managed wetlands should not be regulated the same as production agriculture. The Department was compelled at that time to join two watershed coalitions to obtain regulatory coverage through conditional waiver orders.

In 2008, the Department participated in public processes related to the development of the LT-ILRP. In a May 30, 2008 memorandum to Board staff, we identified a number of concerns associated with the "one size fits all" approach which does not recognize the unique background, setting, and public trust contribution of managed wetlands. We did not opt out at this time, and continued participation in the Irrigated Lands Regulatory Program (ILRP) for the purpose of regulatory efficiency. We suggested continued discussions with Board staff to better understand how ILRP changes would impact managed wetlands and public trust benefits.

The Department believes further discussion is needed to address a way forward that recognizes managed wetland function and value within context of overall water quality goals. In doing so, it is our hope that the Board will conclude that managed wetlands are important features on the landscape that help improve overall ecological value, including water quality.

We appreciate your consideration of these written comments, and welcome the opportunity to work with the Board to address these critical issues. You may contact Mr. Paul Forsberg, at (916) 323-7215.

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Sincerely,



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